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NORTH CAROLINA WILDERNESS AREAS

HEARING

BEFORE THE

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY UNITED STATES SENATE

NINETY-EIGHTH CONGRESS

SECOND SESSION

ON

H.R. 3960

A BILL TO DESIGNATE CERTAIN PUBLIC LANDS IN NORTH CAROLINA AS ADDITIONS TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM

JANUARY 25, 1984

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NORTH CAROLINA WILDERNESS AREAS

WEDNESDAY, JANUARY 25, 1984

U.S. SENATE,
COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY,
Washington, D.C.

The committee met, pursuant to notice, at 10:18 a.m., in room SR-328-A, Russell Senate Office Building, Hon. Jesse Helms (chairman of the committee) presiding.

Present: Senators Helms, Cochran, Boschwitz, and Wilson.

STATEMENT OF HON. JESSE HELMS, A U.S. SENATOR FROM NORTH CAROLINA

The CHAIRMAN. The committee will come to order.

I have purposely delayed a little while because some of our witnesses are literally up in the air, circling National Airport, trying to get down—there is no problem about their getting down, but how safely they get down is the problem. But they will be along shortly, I am sure.

I want to thank the distinguished Senator from Mississippi, who is a stalwart on this committee. You are always here, Mr. Cochran, and I appreciate it. And, Senator Wilson, what an addition you have been. I was out in California during the recess, and I had the opportunity to travel around among some of your farm people, and I told the truth about you while I was out there.

So, I am glad to see both of you here, and we will proceed.

Senator WILSON. It came off much better than that, and I am grateful to you.

The CHAIRMAN. Well, you are quite welcome.

The purpose of this hearing, as everybody knows, is to receive testimony on a bill that would designate additional wilderness areas in four national forests in North Carolina. We are pleased at the prospect of having with us today a number of witnesses from the State of North Carolina, and to them, present and yet to arrive, we owe a special thanks for making a trip in such weather as we have experienced here for the past several days.

The bill before us today, H.R. 3960, would designate an additional 68,750 acres of wilderness in the national forests in North Carolina. This would bring the total number of wilderness acres in the national forests to about 100,000 acres in our State. In addition, the bill would require the designation of 25,816 additional acres for wilderness study.

This is an important issue for North Carolina, and I have heard from many citizens of our State on this matter, and to say the

least, there is a definite difference of opinion on whether more wilderness should be designated in the national forests.

Many who live in the Piedmont cities of North Carolina, and who make occasional trips to the mountains, favor more wilderness. Other citizens of our State, some who live in the western part of North Carolina, would like to see more wilderness because timber harvesting is not allowed in wilderness areas. This enhances the scenic values for some.

At the same time, many North Carolinians who live near the national forests in the western part of the State do not want more wilderness because the designation of areas as wilderness limits their access and use of the land. Many citizens of western North Carolina depend directly or indirectly on the national forests for their jobs. They see wilderness designations as a threat to their livelihoods as timber harvesting, hunting, fishing, wildlife management, mining—activities which are restricted by law or by limited access for wilderness areas.

The real issue of concern to these individuals is not merely the amount of additional wilderness that may be designated by this bill, but the loss of jobs, and the loss of access to other areas in the national forests that could result if we do not have a more predictable degree of planning and management stability in the national forest system.

Over the years, as legislation for the national wilderness preservation system has been developed, Congress has tried to create such stability in the national forest system. The so-called compromise release language contained in several wilderness bills already enacted into law was such an attempt. Congress has continued to direct that the national forests are a system of unique forests, unique not only in their abundant resources, but in their management concept.

This management idea, usually referred to as management for multiple use, has been the guiding policy of the national forest system since it was first created. This idea is represented by the slogan that is still used by the Forest Service—"Land of Many Uses."

One hindrance to a resolution of this problem is that we sometimes do not recognize the difference between national forests and national parks. I find this true in the media in North Carolina, particularly among the editorial writers. Although the landlord of both is the Federal Government, the management practices are obviously different. Our failure to recognize the difference has led to much confusion and misunderstanding of legislative proposals for these lands.

Our national parks are wonders to behold. Management of these areas focuses mostly on preservation in a natural state. The Great Smokey Mountains National Park is a good example. Straddling the border between North Carolina and Tennessee, the park provides abundant opportunities for hiking, primitive camping, and wilderness experience. About 97 percent of the roughly one-half million acres that comprise the park is already essentially managed as wilderness.

As for national forests, there are about 1.1 million acres in North Carolina. About 1 million of these acres are located in the Nanta-

hala and Pisgah National Forests in the western part of the State, and these lands support many different activities.

Current timber sales levels on the national forests in North Carolina are approximately 80 million board feet per year. In more understandable terms, this amount of timber would provide the lumber to build 5,300 homes. But much of this harvest is used to make the hardwood furniture for which North Carolina is famous. Our national forests are a significant source of timber for the forest products industry in North Carolina, helping to provide jobs for about 81,000 people in my State.

Another primary aspect of multiple-use management is recreation. The national forests in North Carolina provide for all types of outdoor activities. They range from developed campgrounds and visitor centers to a 1,200-mile trail system for hikers, horseback riders and off-road vehicle enthusiasts. Reservoirs, whitewater rivers, undeveloped back country and wilderness areas provide additional recreation opportunities, and the Forest Service estimates a total direct economic benefit of the recreation program in western North Carolina exceeds $90 million each year.

Since coming to the Senate and becoming a member of this committee in 1973, I have seen firsthand the controversy that has surrounded many issues having to do with wilderness: The Eastern Wilderness Act of 1975, RARE I, RARE II, and a number of major lawsuits that have had a direct impact on the legislative efforts of this committee and of Congress. We are now prepared to address a number of wilderness bills—and I hope that we can do so in a manner that helps to bring stability in planning and management to the national forest system, one that will continue to provide for both conservation and wise use of these important lands and resources.

Before we hear from our first witness, I, of course, want to call on the Senators present, and I want to pay my deep respect and offer my gratitude to Senator Jepsen for the fine job that he is doing in the consideration of wilderness bills before the committee. As chairman of the Subcommittee on Soil and Water Conservation, Forestry, and Environment, Senator Jepsen has held hearings on two wilderness bills in recent months, New Hampshire and Wisconsin, and on February 1, he will chair a hearing on a wilderness bill for Vermont. This will round out a series of hearings on House-passed wilderness bills currently pending before the Committee on Agriculture, Nutrition, and Forestry.

Now, I will recognize Senators on the basis of their arrival time.

Senator Cochran, again, I want to pay my respects to you for your diligence in this and all other matters coming before this committee. You are a great Senator, and it is an honor to work with you.

STATEMENT OF HON. THAD COCHRAN, A U.S. SENATOR FROM MISSISSIPPI

Senator COCHRAN. Thank you very much, Mr. Chairman.

I appreciate you giving me a chance to speak at this point in the hearing. I want to emphasize what you pointed out in your opening statement that it is important for us to have stability in terms of

planning and management of the national forest system. I want to express to the Secretary this morning my hope that we can move quickly to end the uncertainties that exist, in terms of which lands are going to be susceptible for timber sale contracts and which are going to be wilderness. We must be able to plan for future needs in terms of recreation, as well as availability of forests for wood and wood products industries.

In our State, the wood and wood products industry is the number one industry in terms of jobs and economic well-being in our State. We also, of course, value the wilderness system and those lands that are set aside for wilderness use.

I want to let you know by being here that we support the effort you are making to help reach that balance in your State of North Carolina, between the varied uses that are available in our national forest system. We appreciate your holding the hearing and also, join you in complimenting Senator Jepsen for the work that he is doing as chairman of the subcommittee that has jurisdiction.

The CHAIRMAN. Thank you very much, Senator.

Senator Wilson.

STATEMENT OF HON. PETE WILSON, A U.S. SENATOR FROM CALIFORNIA

Senator WILSON. Thank you very much, Mr. Chairman.

I think Senator Cochran has put it very well. There is a very difficult balancing act that is involved in trying to adjust the multiple uses that the chairman has outlined so well in his statement. The concern that Senator Cochran has indicated with respect to the uses of this land for its timber harvest and the jobs and homes that it produces, I think is a proper focus for the committee, as well as the concern that we have for adequate recreational areas.

I would add nothing more at this time. I think that you and Senator Cochran have stated it well.

The CHAIRMAN. I thank you very much.

Now, my good friend from Minnesota. We used to have a contest about which of our States produces the most turkeys, but now, we have conceded to the District of Columbia. [Laughter.]

STATEMENT OF HON. RUDY BOSCHWITZ, A U.S. SENATOR FROM MINNESOTA

Senator BOSCHWITZ. Well, I think that Senator Cochran has hit the nail right on the head, when he talks about the uncertainties that exist because of the various designations of our national recreation areas. There is wilderness, there are preserves, there are national parks and there are national forests. People do not have an understanding of what the differences are in these designations. In the meantime, there are great uncertainties that exist with respect to lands in this country, what uses those lands can be put to, for example, whether or not timber can be harvested and whether or not other kinds of exploration can be done. Again Senator Cochran is quite right that we have to remove these uncertainties with respect to the public domain. So, I am very much in favor of this hearing, and I compliment you, Mr. Chairman, and Senator Cochran, for bringing these matters to our attention.

The Chairman. Thank you very much.

Without objection, I will introduce into the record testimony from the distinguished Member of the House of Representatives from North Carolina, Mr. James McClure Clarke, who is the author of the bill we are considering today. Also, a resolution by the Macon County, North Carolina Board of Commissioners, opposing any additional wilderness for western North Carolina.[1]

The first witness on the agenda is the Honorable John B. Crowell, Jr., Assistant Secretary for Natural Resources and Environment, U.S. Department of Agriculture, Washington, D.C.

John, please come forward.

STATEMENT OF HON. JOHN B. CROWELL, JR., ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE

Mr. CROWELL. Thank you, Mr. Chairman.

Mr. Chairman and members of the committee, it is my pleasure to be here this morning to present the administration's position with respect to H.R. 3960, the bill dealing with North Carolina wilderness.

I have four principal points I would like to make this morning in summarizing my testimony.[2] The first point is that, contrary to what has been said by many opponents of this administration, this administration does support wilderness designation, but it supports it within the same kinds of bounds and limits that the Senators have alluded to here in their opening remarks. The matter of wilderness designation requires balancing the various public interests for the purpose of determining what is in the very long term best interest of the people of the United States.

Consequently, in North Carolina, where there are approximately 1.2 million acres of forest land in the national forest system—about 5 percent of the State's forest land—the proposal would increase wilderness acreage in the State from the current approximately 31,000 acres by another 69,000 acres, to a total of 100,000 acres, as the chairman stated. To us, that is an appropriate balance. In fact, it is exactly the recommendation that the Forest Service made as a result of the roadless area review and evaluation process that was initiated and carried out by the last administration.

This administration supports the recommendation resulting from the RARE II process for North Carolina, and supports the acreage proposals contained in H.R. 3960. In fact, we suggest that because two of the areas also overlap into the neighboring States of South Carolina and Georgia, that the committee may want to consider the possibility of including in this bill the small additional acreages that would round out a couple of the wilderness areas you are dealing with for the State of North Carolina; we would support that kind of a move.

The third point I would like to discuss this morning, deals with section 5 of the bill. Section 5 treats essentially two matters. One of

[1] See p. 32 for the prepared statement of Representative Clarke, and p. 32 for a reprint of the resolution by the Macon County Board of Commissioners.

[2] See p. 32 for the prepared statement of Secretary Crowell.

them is what in the code words of the discussion about wilderness issues has come to be referred to as sufficiency language, and the other is the issue of release language.

The section is patterned after language which has appeared in other wilderness bills which have been enacted for a few States since RARE II was completed. The release language is what is referred to as "soft release," which I will describe a little bit more in a moment.

We have no arguments or difficulties about the sufficiency language. That has not been a source of debate since the completion of RARE II, so we were pleased to see that that necessary aspect of dealing with the wilderness issue and the multiple-use issue has been included in this bill. Basically, what sufficiency language does is assure that the RARE II environmental impact statement and the RARE II process is legally satisfactory from the standpoint of the Congress and that neither one of those could become the basis for a legal challenge to the planning process which is required by the National Forest Management Act of 1976 to be carried out for each national forest in the country. So it disposes of one of the potential problems which can arise as a result of the RARE II process.

The release language attempts to address another of those problems as well, and that is the question of how often or how many times roadless areas have got to be evaluated for their potential addition to the wilderness system. This particular language would state only that the RARE II process has been satisfactory for the first or the initial cycle of plans for the national forests in North Carolina. When subsequent plans are to be developed, as they must under the National Forest Management Act at least every 15 years—regulations call for revisions or new plans every 10 years—then this question of roadless areas again has to be evaluated if the planning process will be carried out adequately.

The administration does not believe that is an efficient or an adequate way to deal with this problem of release of the other lands which are not recommended by RARE II for wilderness and which were not being designated by this bill for wilderness. We would prefer that there be permanent release, that the Forest Service in carrying out the planning process not again be required to examine roadless areas that might remain, when new plans in years to come are required to be developed. We think it would be perfectly appropriate for the language to accomplish that purpose to say that the Forest Service is not required to review the remaining roadless areas at that time. We think perhaps it does go a bit far to say that the Forest Service shall not review such roadless areas. But it would leave the option for the Forest Service, in cases where it was appropriate as a result of professional land planning and land management needs that might be apparent at the time, to examine whether or not remaining roadless areas could be or ought to be designated as wilderness. It would also, quite honestly, provide the obverse, which is that the Forest Service could look at already designated wilderness areas as part of this planning process, to see whether, in fact, there were other requirements for those areas at that time.

There are, of course, shades of compromise or difference between those two extremes of the "soft release" language that was enacted for a few of the bills that have passed since RARE II was completed and the "hard release", the permanent release which the administration advocates. In fact, the administration did support the adoption of such compromise language in the Wyoming wilderness bill which cleared the Senate and is now pending before the House of Representatives. In that case, the release is effective until the year 2000, and after that, planning to be carried out under NFMA would again consider roadless areas for their potential designation for wilderness.

The fourth point I would like to make this morning deals with the provision of the bill, section 6, which provides further planning areas—"wilderness study areas," in the language of the bill.

The four areas—or, is it five—I have forgotten which—but it is four or five areas that are being suggested in section 6 to be designated for wilderness study areas. These happen to be the same areas that ended up in further planning as a result of RARE II; again, we support the designation of those areas for further planning.

We are troubled, however, by the provision in section 6 which says that, "Until Congress acts otherwise, those further planning areas shall be managed hereafter as though they were wilderness." We think that puts the emphasis in the wrong place, and also tends to prejudge the further planning effort.

So we would recommend an amendment be adopted for section 6 which would provide that the areas be managed as wilderness while the planning process is being carried out and that any of the areas which then are recommended for wilderness as a result of the planning process continue to be so managed, at least until Congress acts or until the Forest Service is required again to do some planning and has to take another look at the areas. In that case, the recommended areas might be subject to change as a result of a revised recommendation.

Some of the wilderness study areas of section 6 may, from the planning effort, end up not being recommended for wilderness; we think it is totally inappropriate that wilderness management continue to take place on those areas until Congress acted to change it.

So, with those recommendations for amendments to sections 5 and 6 of the bill, Mr. Chairman, the administration supports the bill and recommends its enactment.

I will be pleased to answer any questions that you or other members of the committee may have, sir.

The CHAIRMAN. John, I appreciate the summary of your prepared remarks, and the full statement will be made a part of the printed record in full.

At the risk of being repetitious, but for the purpose of emphasis, I am going to ask you a series of questions to make sure that I understand, and hopefully, that others may begin to understand that the argument is not about the wilderness itself, but the locked-in features that some have proposed and that some favor.

Let us address ourselves to the release language, and the disagreement over the need for actual modification of the language.

This will require you to repeat what you have said, but again, I want you to do it for the purpose of emphasis. How do you respond to those who insist that the present language not be modified as to release?

Mr. CROWELL. There are a number of responses to that point. The first is that when RARE II was conceived by my predecessor in the Carter administration, it was announced as being an effort to make a final resolution of what the boundaries of the wilderness system in the national forest system would be. By the time the process was completed, the prior administration had backed away from that view of what RARE II was to accomplish.

The CHAIRMAN. That is correct.

Mr. CROWELL. It was expected that the recommendations would be worked over by the Congress and that once Congress had acted, whether it was on a national bill or on a State-by-State basis, that the boundaries of the wilderness system would be pretty well set once and for all.

The consequence of that, of course, would be that the other multiple-use lands not designated as wilderness would then be a firm land base for carrying out all of the multiple-use activities, which include timber management; dispersed recreation of the sort that is not suitable for wilderness, or cannot be carried out in wilderness because it involves motorized travel of some kind or another; oil and gas development, which is particularly important on certain national forests; mineral development; active fish and wildlife management programs—all of these things are important and serve public needs and can be carried out on the multiple-use lands but cannot be carried out on wilderness designated land.

The purpose, then, of release would be to provide long-term certainty.

Now, it is also true that doing things permanently, forever, is very difficult. And so I think one can recognize that perhaps it is unrealistic to assume that the RARE II process would indeed have resulted in a total, immutable setting of boundaries for the wilderness areas for all time.

But to say that the results of the RARE II process and the subsequent legislative enactment should be effective for only 10 or 15 years, seems to me to be a very inefficient way to manage the planning process, because you have to go through this rather complicated evaluation of roadless areas each time. It is wasteful, it is time consuming, and quite honestly, professional land managers are not likely to vary very much over such a short period of time from the recommendations they had made before.

The CHAIRMAN. Now, let's get to the importance of having a consistent release policy. Just before adjournment, last year, there were two or three wilderness bills, and frankly, the Senators whose States were involved were very much hopeful that we would go ahead and pass the bills affecting their respective States, despite the fact that there was an inconsistency in the release language.

Now, what I want you to do, John, is to tell us if there are any problems that would result from an inconsistent pattern of release language State to State.

Mr. CROWELL. We do not see that those sorts of problems would be insurmountable. The national forest system is a vast system. It

exists in approximately 45 States, as I recall; it includes 191 million acres, which is a tremendous amount of land. It extends all the way from Florida to Alaska and from Maine to California. There are a lot of regional differences, a lot of climatic differences in so vast an area, and so there is a great deal of management diversity that has to be applied to the system.

Consistency in dealing with management procedures or with wilderness areas or with planning would be desirable, but not absolutely necessary. In fact, we now have considerable diversity in terms of the legal requirements that must be met in various parts of the system. For instance, the Alaska National Interest Lands Act provided some differences for Alaska which exist nowhere else. The Eastern Wilderness bill, which you alluded to earlier, Mr. Chairman, set up some differences between the management of the eastern system and the western system. As a matter of fact, when the Eastern Wilderness bill was passed, it relaxed some of the requirements that had previously existed for what would qualify as wilderness.

These kinds of differences make sense in a diverse system like the national forest system and a diverse country like ours, which is so geographically different.

So, although consistency in this area could be meritorious, lack of consistency would not be a fatal defect.

The CHAIRMAN. Good.

I guess I have had more problems—not that I have had all that many—but I have had more problems with people who did not or do not understand multiple-use management. I am wondering if you think this lack of understanding contributes to the disagreement surrounding the question of proper release language as well as other issues involved in wilderness designations.

Do you find that when you discuss multiple-use management outside of forestry circles, outside of environmental circles, that there is not a very clear understanding of the concept?

Mr. CROWELL. I do. Multiple use can mean a great many different things to different people. In fact, it can mean different things to the same person in different contexts. And it is one of these terms which is useful to a degree, but also can cause the complications you refer to.

Multiple use is a function of some of the diversity that I alluded to a minute ago—the geographic differences, the climatic differences, the types of species that exist in the national forest system; the various management regimes that are called for as a result of the existence of those systems. Time is a major factor in applying the multiple-use concept. You cannot do everything on the same acre at the same time. But many of the multiple-use purposes, of course, can be carried out on the same acre in succession. So it is a tricky concept, but it is a very useful concept, and once one understands the complexities that go along with it, it still is a very useful explanative term for what I believe is the basis of good forest management, particularly for the national forests.

I think the Multiple-Use Act of 1960 was a wise act that we should pay a good deal of attention to. We should be very slow to back away from the meanings and implication of that act.

The CHAIRMAN. Senator Wilson.

Senator WILSON. The amount of land that would be added by the RARE II proposal would be another 100,000 acres, did I understand?

Mr. CROWELL. No. RARE II and the provisions of the bill would add another 69,000 acres to the existing 31,000 in North Carolina, for a total of 100,000. That would be about 8.3 percent of the total national forest land in the State of North Carolina.

Senator WILSON. How does that compare with the proposals for California?

Mr. CROWELL. I cannot answer that question off the top of my head, Senator, but I would be pleased to provide the answer to that question for the record. I can do that.

Senator WILSON. In the different bills that Congress has acted on so far, the Wyoming bill, I think the chairman mentioned, is one that contains language that is not permanent release, but it is hard until 2000, the year 2000.

Mr. CROWELL. Yes. I think I was the one who mentioned Wyoming.

Senator WILSON. All right. What is the situation with respect to the other bills?

Mr. CROWELL. The bills that have passed the House in this Congress all have passed with the Colorado soft release language in the bill. The only bill—I think I am right when I say this—the only bill with hard release that has passed the Senate is the Wyoming bill.

It is my understanding you have four Eastern bills pending before the committee at this time—North Carolina, New Hampshire, Vermont, and Wisconsin—and some of those have passed the House, if not all of them, so they would also have the soft release language.

Senator WILSON. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. I have just been given a statement of Senator Huddleston which, without objection, will be made a part of the record.[1]

We thank you for coming up. It is always good to see you.

Mr. CROWELL. Thank you, Senator. My privilege.

The CHAIRMAN. We will now hear from a distinguished citizen of North Carolina, James A. Summers, the Secretary of the Department of Natural Resources and Community Development of the State of North Carolina. He will be accompanied by Anne Taylor, if you will both come forward.

Mr. Summers, you may proceed. We give the option in this committee, either you can deliver your entire statement, or you can summarize it, and the full statement will be made a part of the record, so whatever your pleasure may be.

STATEMENT OF JAMES A. SUMMERS, SECRETARY, DEPARTMENT OF NATURAL RESOURCES AND COMMUNITY DEVELOPMENT, STATE OF NORTH CAROLINA, ACCOMPANIED BY ANNE TAYLOR

Mr. SUMMERS. Thank you, Senator. With your permission, I would prefer to go ahead and just read the statement.

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[1] See p. 31 for the prepared statement of Senator Huddleston.

Senator, my name is Jim Summers, and I might add that I have enjoyed the few occasions that we have had the opportunity to be together. I served before my present opportunity as the mayor of Salisbury, and we welcomed you to our community on several occasions.

The CHAIRMAN. Yes, sir. It is always good to go there; I was there not long ago.

Mr. SUMMERS. I am the Secretary of the North Carolina Department of Natural Resources and Community Development, and the testimony that I will present on H.R. 3960, the North Carolina Wilderness Act of 1983, represents the position of Gov. James B. Hunt, Jr., and the position of the State of North Carolina.

You have before you a North Carolina Wilderness bill, cosponsored by every member of North Carolina's House Delegation, and supported by North Carolina's timber, wildlife, environmental, and recreational interests. From the results of polls and surveys, we know that North Carolinians favor, certainly on a majority basis, more wilderness in our State. Seven years ago, no one would have believed that such a statement was remotely conceivable in North Carolina. The issue of wilderness was as emotional and controversial as any issue that we have ever faced in our State. I tell you these things of which we are not proud, only to impress upon you the value we place upon the unity that this bill represents.

Because of the divisiveness in the history of RARE II, Governor Hunt, in early 1983, asked the leadership of the many divergent interests to meet together in an effort to reach a consensus on North Carolina's wilderness. In May of 1983, the Governor's Wilderness Task Force met for 2 days.

I think it is worth my taking your time to list the organizations and agencies whose leadership attended.

In addition to full staff representation by the North Carolina U.S. Senate and U.S. House of Representatives, the following people participated: The president of the North Carolina Sierra Club; the president of the North Carolina Forestry Association; the executive director of the North Carolina Wildlife Federation; the president of the North Carolina Nature Conservancy; the president of the Hennessee Lumber Co.; the director of the Wildlife Resources Commission; the director of the North Carolina Division of Parks and Recreation; the director of the North Carolina Division of Forest Resources; the chairman of the North Carolina Parks, Parkway and Forest Development Council; and the Secretary of the North Carolina Department of Natural Resources and Community Development.

The former secretary of natural resources and community development chaired the 2-day task force meeting, and the U.S. Forest Service and my department staffed that effort. Each member of the task force came to the meeting with a commitment to attempt a consensus—and we do say at this point, it was an attempt, because these people represent thousands of citizens, and their obligation to represent their organizations weighed heavily upon them.

The debate was long and thorough—area boundaries, economic pluses and minuses, release language, study areas, public sentiment, game management—each issue within the issue was ad-

dressed, and amazingly, out of that 2-day meeting, a consensus was reached.

As you know, Senator, representatives from your office and from Senator East's office were present at that meeting—and I might add, my understanding is that they made some very significant contributions to that discussion. I am sure that they briefed you on the tremendous effort by all members of the task force to negotiate a consensus.

The bill before you initially introduced by Representative Clarke and cosponsored by the full North Carolina U.S. House of Representatives of both political parties of that delegation is the embodiment of the consensus reached through the deliberations of that wilderness task force.

Significantly, H.R. 3960 is also responsive to the U.S. Forest Service's recommendations resulting from the extensive RARE II public participation process in North Carolina.

In reaching our release language position, we have reconciled the long-term planning needs of the timber industry with the mandated, multiple-use options for future generations.

The initial planning cycle of the forest land management planning for North Carolina's national forests could be completed by 1985. Any argument that a new wilderness review would begin at that time is a misrepresentation of reality. For all practical purposes, the release language we advocate and that which is contained in H.R. 3960 will put this question to rest until 1995 or later.

The release language in the bill is a key element of the consensus reached by the task force. To maintain the unity of support behind this bill, there is no room for compromise on this aspect of the legislation. Implementation of the language serves all interests. It precludes none. There will be well over half a million young people in North Carolina in their early twenties by 1995. Their opinions, their values, should not be ignored by actions of Congress that foreclose future choices. Permanent release simply does not acknowledge a role for our ever-changing population and what their desires might be.

As written, any further wilderness designations will be openly debated through an orderly planning process designed to be responsive to the multiple-use concept mandated by Congress. We strongly advocate the release positions as stated in H.R. 3960.

The four study areas set forth in H.R. 3960 are another essential provision in North Carolina's unified support of this bill. It became evident through discussions at the wilderness task force meeting that the concerns and questions on these four areas can be resolved. These four areas require field work and study. We did not avoid a decision on how the study areas should be managed—we recognized that a better decision will be made through the "further study" process.

Study recommendations by the task force were not a "way out" to avoid disagreement. The four areas are of great interest to all interests—the prospects for a reasonable solution of questions is real, and the best public interest is served by further study in the immediate future.

Few issues have been scrutnized like the North Carolina wilderness proposal. We believe that the bill which passed the U.S. House of Representatives is one that evolved through the will of the people. This bill serves the national interest of wilderness protection for future generations.

We ask your support for the North Carolina Wilderness Act. It is a carefully conceived piece of legislation that shows unity rarely seen in bills brought to these chambers.

Senator, that concludes my statement, and at this point, we would be very happy to entertain any questions.

The CHAIRMAN. Thank you for a very fine statement.

Around this place, the "intent" of legislation is at least as important as the way it reads. My point all along has been that we all understand what we are saying. There will be no question about it, and there will be no question about the intent, in the event of any court suit, one State versus another, or whatever.

So what you are saying is that there is no question in your mind about the intent that at least 10 years be involved in this release language.

Mr. SUMMERS. There is absolutely no question in my mind at all on that point.

The CHAIRMAN. Well, you said there was no area of disagreement about the language of the bill—I may have misunderstood you—but Congressman Clarke's bill does not specify that in the language, and that gave me some concern because of the lack of—I do not like this word, "specificity"—but you are saying for the record, without any paradventures, that the intent of the Clarke bill is that no less than 10 years will be involved.

Mr. SUMMERS. Yes, sir.

The CHAIRMAN. All right.

Mr. SUMMERS. I think, too—and Anne and I discussed this at some length on our rather extensively prolonged trip from Raleigh-Durham this morning—that—and I would like to reemphasize your question, because I think it is a key point.

The CHAIRMAN. It is.

Mr. SUMMERS. The intent is there. We do feel at the same time that that intent within itself ought to be sufficient, that it would really detract and take away if you try to spell that out and nail that down.

It is true that under the soft release language, there would be an opportunity to give at least an examination at the end of 5 years, and that does allow flexibility, I think, on both sides, which flexibility, for example, may be brought forth by the forest industry itself, that they would want to look at some things at the end of 5 years. But we feel very strongly that this type of commitment on intent would certainly be considered by a congressional committee that is looking at it, whether they are going to decide to open it up at the end of 5 years or not. I think they would look back to just the question you are asking, as to what that original intent was. And we feel that, basically, we just do not think the intent is to open it up any time less than the 10-year period, or 1995.

The CHAIRMAN. So, in your deliberations and consideration, you had in mind the 10 years?

Mr. SUMMERS. Yes, sir.

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I think, too, the one thing that we really feel very strongly about—and I perhaps have overemphasized that point—I was not present with the wilderness task force when these deliberations took place—but I understand that the background for those folks coming together was one of utter chaos. RARE I and RARE II up to that point had just been divisive, even had families that were split up over this issue. People particularly in western North Carolina were just tremendously concerned.

So all of that, I think, was brought to the table by these people when they came together for that 2 day wilderness task force meeting. And I think that they came in with the hope that, out of coming together, they could reach a unity where they could say, "This is something that we feel is in the best interest of the State of North Carolina." And I think out of that process, I do not know that anyone, any one of the factions involved, any one of the constituents or groups, felt that they got everything that they had hoped to get. But I think they all felt that they came away supportive of the process, and basically, supportive of the consensus that was reached.

And for that reason, we feel that this coming together is, if you will pardon the use of the word, but I just cannot think of a better one, is rather fragile. And once we start changing release language, once we start changing that consensus that came together, well, then, we would undoubtedly see a weakening of support for those people who were represented there for the total concept, because they would feel somehow that the consensus had broken down and the pieces no longer fit together.

And there again, I apologize if it sounds like I am overstressing that point, but I just think that the unity that was achieved during those 2 days, particularly coming out of the backdrop of the chaos that was experienced in RARE I, particularly, was a very good thing for our State.

The CHAIRMAN. Very well. Thank you.

I hope you don't get hung up over Raleigh-Durham going back. I had a call from Jack Kilpatrick. He was stranded in West Palm Beach last night. Apparently, this fog goes all the way down to Florida.

Mr. SUMMERS. I would think if you were going to be stranded, that would probably be a pretty good place to be stranded.

The CHAIRMAN. Well, he did not think so. He wanted to get back to Scrabble.

We were driving home from the Sheraton Washington from a press dinner last night, and we could hardly see the car with the lights on in front of us. It was frightening, and I was glad to get home.

Mr. SUMMERS. I flew in about almost 11 o'clock last night from a meeting in Wilmington, and the fog was so thick that we did not really know we were on the runway until we were just a few feet away from it. That is not a good feeling at all.

The CHAIRMAN. Yes. That is when I feel like I need feathers.

Well, thank you very much. Your testimony was excellent. And thank you, Ms Taylor.

Ms. TAYLOR. Thank you, Mr. Chairman.

The CHAIRMAN. Now we have a panel of distinguished North Carolinians—Morris "Mac" L. McGough, Charlie Woodard, and Ken Davis.

Mr. McGough is executive vice president of the Western North Carolina Development Association in Asheville. Mr. Woodard is president of the Southern Appalachian Multiple-Use Council in Sylva, and Mr. Kenneth L. Davis, Nantahala Chapter of the Appalachian Section of the Society of American Foresters in Franklin.

I have just been handed a note, and if we are going to finish this hearing and let you get on your plane, we ought to go on a 5-minute rule, if that is all right.

We welcome you here.

Mac, proceed.

STATEMENT OF MORRIS L. McGOUGH, EXECUTIVE VICE PRESIDENT, WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION, ASHEVILLE, N.C.

Mr. McGOUGH. Thank you, Senator.

I appreciate very much this opportunity.

The Western North Carolina Development Association is an area development organization including the 18 western-most counties of the State. It has been operating for the past 35 years to help promote agriculture, the rural sections and western North Carolina as a region, and has been widely recognized as one of the Nation's pioneer self-help, rural development programs.

Senator, as you know, one of your former colleagues in the delegation, Roy Taylor, is the head of this organization.

Forest lands play a vital and unique role in agriculture, the economy, and life in general in our area of North Carolina. Seventy-eight percent of our land is in forests. The forests provide a livelihood for thousands of our citizens, are a major source of our water supplies, and provide recreation and scenic beauty for millions of visitors and residents each year.

Our organization has been actively involved for many years with programs and decisions involving the usage of our forest land resources, both public and private. Our forestry commission has long been in the forefront of efforts to promote wise use and appreciation of all forest resources and to encourage tree planting, timber stand improvement, and other good forestry practices.

With this long history of involvement in promoting the wise and good use of our forests, both public and private, we are particularly pleased to have this opportunity to participate in this hearing.

Twenty-four areas of national forests in North Carolina, comprising 207,200 acres, were set aside, studied and evaluated in the national inventory of roadless and undeveloped areas, RARE II, as part of the wilderness designation system. Of this total, 172,000 acres are located in western North Carolina.

Naturally, our association had a vital interest in a proposal affecting 22 percent of all the national forest lands in our area. We were greatly concerned and alarmed about the possible consequences of decisions involving the economy and welfare of the people of western North Carolina. Officials of our organization met with members of the North Carolina congressional delegation here

in Washington, D.C., on March 7, 1978, as perhaps you will recall, Senator Helms, and expressed opposition to creating additional wilderness areas in the national forests in our area.

Today, nearly 6 years later, these same study areas of national forest lands in western North Carolina remain set aside, their situation in limbo, and their future uses for mankind in doubt.

We have, therefore, altered our position and are willing to try to help resolve this matter. With the passage of time and the recognition of the urgency of getting this matter resolved, we altered our position and are trying to work to resolve this matter in order that the U.S. Forest Service can go about the business of protecting and managing these public lands.

A resolution adopted unanimously by the 50-member board of directors of our organization on May 19, 1983, stated:

One. That although RARE II was an awkward, tedious, and expensive process, the resulting recommendations for North Carolina were based on objective, thorough and reasonable studies and involved a great amount of public involvement and discussion;

Two. Another full study of the RARE II areas—RARE III is already now underway—will seriously disrupt normal Forest Service activities, be expensive, and rekindle the old animosities which Secretary Summers has referred to, and

Three. Continued delay in making final decision on the ultimate usage of the Forest Service lands studied is unnecessarily disruptive to the economy of North Carolina, denies or limits access and usage by its citizens and proper management and harvest of forest lands.

The North Carolina Congressional Delegation was asked to seek legislation to finalize the recommendations of the U.S. Forest Service to complete the wilderness system in North Carolina.

The forestry commission of the development association held a meeting of representatives of various conservation, environmental, forestry, and timber organizations of our area on May 16, 1983, to discuss the RARE II study. This group adopted a resolution,[1] with only one dissenting vote, urging that legislation be enacted to finalize the study recommendations in North Carolina.

This was a meeting very similar to the one of the Governor's task force, comprised primarily of folks in our area of the State.

Our sincere hope and plea is that the matter of the usage of the study areas be resolved for the foreseeable future. Our area and our people need to be able to move ahead without this issue hanging over us, or constantly coming back as a divisive force.

We are pleased that H.R. 3960, the North Carolina Wilderness Act, addressed these requests by designating the lands in RARE II to complete the State's wilderness system, 65,000 acres; releasing certain areas, 114,000 acres, to full multiple use, and identifying areas for further study, or 27,000.

We supported H.R. 3960 in hearings before the first session of 98th Congress, and urged its approval. We do so again today. It is urgent that this matter be resolved and put to rest.

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[1] See p. 34 for a reprint of the resolution referred to by Mr. McGough with accompanying statement on RARE II.

However, as we stated in previous testimony, we would like more assurance of a long-term solution.

That is my statement, Senator.

The CHAIRMAN. Thank you, Mac. I will tell you, you ought to be in radio or television. That bell rang just as you finished.

You heard my question of the preceding witness. Do you agree that everyone who participated in the formulation agrees that the intent is for 10 years?

Mr. MCGOUGH. Well, as I mentioned in my statement, yes, I think everyone recognizes this as the intent and what you are talking about, and that the 10-year interval is a reasonable sort of period. I think what a lot of folks are saying is that they would like to see something spelled out in a little different language.

The CHAIRMAN. Yes. Well, the reason I have been pursuing this is because of our constant working with everybody involved, including John Crowell. In his prepared statement, which he did not read, but summarized, he said this: "Under the language of the bill, if a change in physical condition or litigation results, and the need to revise the forest land in only, for example, 2 years, the entire roadless area review and evaluation question would again be raised."

I am like you. I do not want this question to keep popping up periodically and to have the controversy and the litigation, State to State, and within States.

Mr. Woodard.

Mr. WOODARD. Thank you, Mr. Chairman.

It is a privilege to get to appear here again before your committee.

The CHAIRMAN. It is always good to see you.

STATEMENT OF CHARLES WOODARD, PRESIDENT, SOUTHERN APPALACHIAN MULTIPLE-USE COUNCIL, SYLVA, N.C.

Mr. WOODARD. I always enjoy it. Thank you, sir.

I represent the Southern Appalachian Multiple-Use Council—I am president of it. It is composed of about eight or nine sawmills in western North Carolina, and we employ about 2,200 people.

We have been concerned with RARE II, III, IV, or however many numbers we have now, for about 10 years. In western North Carolina, the Federal Government owns 51 percent of the land. They own more land than everybody else combined. They own about 82 percent of the merchantable timber in western North Carolina. In the county that I grew up in, Swain County, I am sure that the chairman realizes, they own 86 percent of that county.

When you have the Government owning such a large percentage of the land, I think they have an obligation to people in that area to manage that land. The Government controls the land base in western North Carolina very drastically.

The lumber industry is trying to come out of the worst slump that it has been in in 50 years. We have an opportunity for mills to be started back up and shifts to be put back to work that have been shut down. We need the raw material in order to do this. We have shifts shut off now, mills down now, because they are out of logs. Seventy-five percent of the lumber that we produce in western

North Carolina goes to Piedmont furniture factories, which is the third largest industry in our State, as I am sure you are aware. We also have an unemployment percentage of in excess of 20 in most of those counties. I think Swain County and Graham County lead, with about 26, 27 percent.

We need some relief now. Later on, I do not know how it would help us. The Forest Service needs to be able to manage the lands, and people need to be able to go back to work.

The Southern Appalachian Multiple-Use Council strongly favors H.R. 3960, and we hope that we can see some action in the near future.

One other comment. In talking about further study areas, one item that I hope people would not forget is that the Snowbird area in Graham County, some 8,000 acres, was not recommended for further study in RARE II, all the way up through Forest Service channels. It was put in by Executive order. So they made that study, they made their recommendations, and it was reversed in Washington, D.C. A lot of folks have forgotten that, but I have not.

The CHAIRMAN. When was this?

Mr. WOODARD. Well, when the recommendations came out, Snowbird was not included in the further study area.

The CHAIRMAN. Mr. Brooks, do you remember when it was, what year?

Mr. BROOKS. Senator, the recommendations came out in January 1979.

The CHAIRMAN. I see. Thank you.

Mr. WOODARD. That completes my statement, and I appreciate the opportunity to appear here.

The CHAIRMAN. I appreciate your coming.

Mr. Davis, we welcome you, sir.

STATEMENT OF KENNETH L. DAVIS, REPRESENTING NANTAHALA CHAPTER, APPALACHIAN SECTION, SOCIETY OF AMERICAN FORESTERS, FRANKLIN, N.C.

Mr. DAVIS. Thank you, Senator Helms.

I appreciate the opportunity to come to present my statement, to Senator Jesse Helms, chairman of the Committee on Agriculture, Nutrition, and Forestry.[1]

My name is Larry Davis, and I am a resident of Franklin, N.C. I was born in western North Carolina, and have lived there all my life, 45 years, as did my father and forefathers for five generations prior.

I finished college at North Carolina State as a forester and worked 13 years for the U.S. Forest Service on four ranger districts in North Carolina. Much of this work was "on the ground" silvicultural land management, including timber management, recreation, fire control, and wildlife work.

I have been a member of the Society of American Foresters for many years. About 14 years ago, I went into private business and since have observed and participated in management of the national forests.

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[1] See p. 35 for additional material supplied by Mr. Davis.

Recently, I was asked to come here and testify on behalf of our local chapter of the Society of American Foresters.

The Nantahala Chapter, Appalachian section, asked me to come and support the North Carolina Wilderness Act of 1983. This act, as you know, if enacted, will establish 65,740 acres additional wilderness, of which 33,960 acres are in western North Carolina. If the law is enacted, this would bring North Carolina's wilderness areas on national forest land to a total of 99,700 acres.

In the spring of 1983, the Nantahala Chapter of Professional Foresters met in Bryson City, N.C. and passed a resolution to strongly recommend to the Society of American Foresters' policy director, Chief of the U.S. Forest Service, North Carolina Senators and Congressman, and North Carolina's forest supervisor, "No more wilderness acreage in western North Carolina."

Now, in a more recent meeting, I have been asked to reverse our true feelings and come here and support the establishment of more wilderness acreage through the North Carolina wilderness bill.

I hereby ask that this committee analyze the true feelings of these competent foresters and act accordingly.

Thank you.

The CHAIRMAN. That is precisely what I have been trying to do. I feel on an issue of this magnitude, that I have the responsibility and the duty, as a Senator, to let everybody be heard, and will go to the length of my cable to try to do that.

As you know, we have studied this thing chapter and verse. I have sent staff down there to look and to interview and to talk, and I was not willing to move on it until I was confident that at least everybody had an opportunity to be heard and to express his or her view on it.

I appreciate your testimony.

Mac, to you first, I want to tell you that I have known you for a long time, and you are a great citizen. You have been involved in so many things that are of extreme importance to our State, and particularly to the section of North Carolina in which you live. I appreciate your involvement in this. I know that you had to analyze a lot of things--and when I say "you," I am speaking also of the Western North Carolina Development Association——

Mr. MCGOUGH. We have had many people involved over a period of years. And we feel it is very important. Otherwise, I would not have gotten up at 4 o'clock this morning.

The CHAIRMAN. I know, and that is typical of you. From your statement and resolutions that you have submitted, it is fair to say, then, that the association members would like to see more long-term stability in the management of the national forests of North Carolina. Is that a fair statement?

Mr. MCGOUGH. Yes, I think that is a fair statement. I think that really, the statement on the release is to put it a little bit more understandable—or, more specific, perhaps would be a better word—so that there can be no divisions of interpretations on what you are talking about.

The CHAIRMAN. Well, this is precisely the problem that we have been addressing in this committee. And I want there to be no question about the intent at any time. I do not want some Federal judge to say, "Well, I think they meant so and so and so and so."

So, at the very minimum, we are going to have this matter of intent spread on the record, so that any judge who understands the English language can know what Congress intended when Congress approves this bill.

Now, in your testimony, you mentioned some of the conservation and reforestation effort that your organization has been involved in over the years. I just want to say to you that this is what conservation and true environmental concern is all about, and I congratulate you.

I happen to be the father of a young man who is a forester, and he has his own ideas about what is best in terms of wildlife and everybody conerned. He agrees with you. He says the worst thing you can do is to create a situation where a forest fire would just destroy whole hundreds of acres or where the life expectancy of the wildlife drops under various conditions.

I have sat many hours and listened to him—he is a lobbyist in my family, and he, like you, is a graduate of North Carolina State.

Well, I thank all three of you, and I hope you make your plane on time and I hope you do not have to circle Asheville too long.

Mr. McGOUGH. Thank you, Senator.

Could I just reiterate——

The CHAIRMAN. Certainly.

Mr. McGOUGH [continuing]. That I think that what is so urgent is that a bill like this H.R. 3960 come out in some form, and the sooner the better.

The CHAIRMAN. Well, that is going to happen, and I made that clear last year, that I did want to perform my duty in making sure everybody was heard on the issue.

Mr. Woodard, let me see here. I jotted down a few questions here. Do you think that 10 years is an adequate period of time?

Mr. WOODARD. Yes, sir, I think that is a reasonable amount of time. On a bill that is as important to western North Carolina as this bill is and as controversial as this bill is, is there anything wrong with putting 1985 or 1990 or 2000 or something? Everybody knows when that is.

The CHAIRMAN. And nobody can argue with it, either. They cannot shade it one way or another. This has been a matter of concern to me.

Mr. WOODARD. I read a comment from NFPA where Chief Max Peterson was talking with Mr. Siberling, I believe, and I think Chief Peterson was not near as sure about when this was going to take place as some people have indicated here this morning, if I can read right.

The CHAIRMAN. Yes. Well, I do not know what we are going to do, and I cannot state with any feeling of security—but the very minimum we will have is the clear intent, stated for the record in the record. So I think, one way or another, we will take care of that.

I would like to sit and talk with my fellow North Carolinians, but we have got some other witnesses, and we will hear from them.

Thank you very much, and have a nice trip home.

We now have Dr. Robert Cox of the North Carolina Chapter of the Sierra Club at Chapel Hill; Manley Fuller, of the North Carolina Wildlife Federation, and Peter Coppelman, director of the forest

wilderness programs of the Wilderness Society, here in Washington, D.C.

I know you do not want to spend the day before a one-man Agriculture Committee, so I will give you the option—I will stay as long as you wish. I mentioned the 5-minute bell, but if you need more time than that, feel free to take it.

Dr. Cox?

STATEMENT OF DR. J. ROBERT COX, NORTH CAROLINA CHAPTER SIERRA CLUB, CHAPEL HILL, N.C.

Dr. Cox. Thank you, Senator.

My name is Robert Cox, and I am testifying today on behalf of the North Carolina Chapter of the Sierra Club.[1]

Senator, in North Carolina, the Sierra Club has over 5,400 members in 93 of North Carolina's 100 counties. Let me make clear the club's position on H.R. 3960 at the outset.

We believe that this is a compromise bill. It represents long hours of discussion and concessions by conservationists, business and timber representatives, members of North Carolina's congressional delegation, and State officials who have been working together over the past year to try to resolve the issues of RARE II in North Carolina.

We support the bill as presently worded, and we hope that this committee would maintain at least three important features of the bill.

First, we believe that the designated area of 68,000 acres and 11 areas as wilderness represents the rock-bottom minimum protection of RARE II areas. In fact, Senator, the combined acreage of already existing wilderness and the new wilderness added under this bill would represent less than 9 percent of the 1.2 million acres of national forest lands in North Carolina.

Now, the Sierra Club has cooperated with others who are concerned about RARE II in North Carolina, in an effort to reach a fair settlement of an issue that has caused bitter controversy in the past. For its part, the Sierra Club has agreed to drop its insistence that many valuable areas be included in this legislation. The club has long sought protection for many areas that I have outlined in my written testimony that this bill will not cover.

Altogether, over 112,000 acres, or about 54 percent of the roadless areas in RARE II would be released by this bill, for timber and other development purposes.

Senator, in addition to the minimum wilderness acreage, two other issues have been critical to our support for H.R. 3960. First is the standard release language in section 5, in which Congress finds that RARE II shall not be subject to judicial review with respect to forest lands in North Carolina, and further, that the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans.

We believe such language satisfactorily resolves the uncertainties of *California* v. *Bergland*. In affirming the district court's finding, the U.S. Circuit Court of Appeals held that the U.S. Forest

[1] See p. 37 for the prepared statement of Dr. Cox.

Service inadequately assessed the wilderness values of lands that had been recommended for nonwilderness in RARE II. The bill would resolve the uncertainty of such areas and prevent an expensive and timely RARE III process in North Carolina through congressional determination of RARE II to be an adequate consideration for the suitability of such lands for the wilderness system.

Now, those who have urged so-called hard release language go beyond what is necessary to resolve the issues of *California* v. *Bergland*. By amending section 5 to state that areas not now designated wilderness or by affixing a date before which the wilderness option may be reviewed, Congress would severely prejudice the review process in future forest planning.

And I hope, after I finish, that your questions will allow me to elaborate.

Such wording, we believe, follows the precedent Congress has established in other States' wilderness bills for the equitable resolution of RARE II on a State-by-State basis. The North Carolina Chapter of the Sierra Club is firmly committed to this language and supports the bill on this basis. Standard release language would safeguard the right of the public, the citizens of North Carolina, through the orderly planning process, to assess the value of these lands for themselves in future generations.

Finally, the Sierra Club believes that section 6, the inclusion of five wilderness study areas, including Snowbird, is crucial to this bill. Public support and use of these areas make it essential that the U.S. Forest Service continue to manage them for their wilderness qualities while further study and evaluation proceed.

In summary, Senator, we believe that further restrictions on wilderness acreage, or changes in the standard release language of section 5, would irreparably weaken this bill and undermine the broad bipartisan support for it, and I suspect, Senator, that some of the visions of controversy and uncertainty that others have testified to before in the last hour would more likely occur if we begin now to amend and change and write exceptions into what Congress has now accepted as standard release language, rather than prevent such a situation.

The time is now to resolve the issues of RARE II in North Carolina and to extend protection to many unique and irreplaceable portions of our wilderness heritage.

I urge this committee's approval, without amendment, of the North Carolina Wilderness Act.

The CHAIRMAN. Mr. Fuller?

STATEMENT OF MANLEY FULLER, NORTH CAROLINA WILDLIFE FEDERATION, RALEIGH, N.C.

Mr FULLER. Thank you, Senator.

My name is Manley Fuller, and today, I am here representing two organizations. I am a wildlife biologist, employed by the National Wildlife Federation, at our Southeastern Natural Resources Center in Raleigh, and I have also been asked by the board of the North Carolina Wildlife Federation to represent their opinions here today.

What I will provide is a summary of my remarks and will follow this with written testimony.[1]

The National Wildlife Federation is the world's largest conservation and education organization, with over 4 million members and supporters. The North Carolina Wildlife Federation, our State affiliate, is the State's largest conservation organization, with over 30,000 supporters across the State.

I appreciate the opportunity to be here today.

In North Carolina, as many of our sister Sun Belt States, we are experiencing rapid population growth, and this is putting pressures on the State's natural resource base.

Within our four national forests, the national forests in North Carolina are not immune to these pressures. Certain areas within the State's national forests have not been subjected to intensive human development and still retain outstanding natural values. The proposed North Carolina Wilderness Act of 1983, H.R. 3960, in our view, will protect many of these areas from development pressures, and will benefit those desiring recreational activities and hunting in a fairly pristine environment. Habitat for forest wildlife, such as the black bear, will also be benefitted by adoption of this act.

The National Wildlife Federation and the North Carolina Wildlife Federation strongly support the proposed legislation and feel that it would be in the best interest of natural resource conservation in the State.

Although I am a native of western North Carolina, I have spent quite a bit of time in the vicinity of the Croatan National Forest, with field work and graduate research, and I am especially familiar with those proposed wilderness areas. Most of those areas are represented by a type of habitat which is referred to as pocosin. These are densely vegetated shrub bogs that are scattered along the southeastern coastal plain, but they are most extensively developed in North Carolina.

In the last two decades across eastern North Carolina, approximately two-thirds of the State's pocosin wetland environments have been altered to varying degrees. Many of these have been converted to large farms and large agricultural operations and forestry operations. This draining of pocosin wetlands can have adverse impact on fish and wildlife values. The possibility of large scale peat mining may occur in our coastal pocosins.

The Croatan National Forest contains the largest number of these habitats in public ownership, and we feel that conservation of these areas through the wilderness designation and the proposed areas within the Croatan National Forest will go a long way toward protecting this rapidly diminishing resource.

I might add that these areas have almost no commercial value to timber production.

I will close my remarks by saying that both the North Carolina Wildlife Federation and National Wildlife Federation strongly support the legislation and hope that it is passed in this session.

Thank you, sir.

The CHAIRMAN. Thank you.

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[1] See p. 39 for the prepared statement of Mr Fuller.

Mr. Coppelman.

STATEMENT OF PETER D. COPPELMAN, DIRECTOR, FOREST WILDERNESS PROGRAMS, AND COUNSEL. WILDERNESS SOCIETY

Mr. COPPELMAN. Thank you, Senator.

I am pleased to be here this morning, representing the Wilderness Society. We are a nonprofit organization, founded in 1935, and we have about 1,000 members in North Carolina. Accompanying me is Peter Kirby, who is director of our forest management program.

I am going to summarize my remarks, since they are fairly long.[1]

I would like to confine my remarks to the issue that a lot of people have addressed today, the issue which is of national importance, of the release language.

The question has been raised this morning, by you and others, Mr. Chairman, that the release language may be inadequate to accomplish the purpose which it is intended to accomplish, which is to provide for one generation of release. In particular, the Congressional Research Service recently issued an analysis which said, "Literal reading of the soft release language could force reexamination of the wilderness potential in some areas as early as 1986."

Mr. Crowell, as you pointed out, repeated this argument.

We do not think that the CRS analysis should be used as a basis for altering the statutory release formula on a number of grounds.

First, the analysis inadequately considers the legislative history of soft release; second, it inadequately considers the regulations implementing the Resources Planning Act; third, it addresses a purely speculative problem, and fourth, it does not address the real problem. I would like to briefly go over those arguments.

The analysis by CRS concludes, without real discussion, that "a literal reading"—that is the words of the analysis—of the statutory language could require a wilderness review as early as 1986, because revisions to plans can occur prior to scheduled revisions every 10 to 15 years that are referred to in the statute and implementing regulations. This analysis assumes that there is a clear, literal meaning to the statute, and we believe that that is not true, that the statute is ambiguous, at best, in its references to revisions and the kind of revisions that would trigger a reevaluation of wilderness.

The statute and regulations contemplate two kinds of revisions—the first, a regularly scheduled revision every 10 to 15 years, and the second are what are called unscheduled revisions, which may occur according to the regulations,

> Whenever the Forest Supervisor determines that conditions or demands in the area covered by the plan have changed significantly, or when changes in RPA policies, goals, or objectives would have a significant effect on forest-level programs.

CRS analysis assumes that either scheduled or unscheduled revisions could trigger a new wilderness review, but we believe that a careful reading of the statute and the legislative history does not support this interpretation. The soft release language says, "The

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[1] See p. 40 for the prepared statement of Mr. Coppelman.

Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans."

In our view, if Congress intended any kind of revision to satisfy this language, it would have referred to "a" revision, and not "the" revision. By referring to "the" revision, the definite article, it appears that Congress had a specific provision in mind, and that could only be the regularly scheduled revision and not just any revision of the plan.

At best, the statute is unclear and ambiguous, and in that case, resort to legislative history is appropriate to determine congressional intent.

A good indication of that intent is the House report that is cited in the CRS analysis which notes that, "The Committee believes and expects that the wilderness option for the roadless areas will not be reexamined in most cases until approximately 1993." That is the second generation of plans.

There are other, equally strong statements of Congressional intent. Senator Armstrong, who was a sponsor of the Colorado bill where this language appears, said during debate on the Conference Report on the Colorado wilderness bill,

> Under the land management planning process, the Forest Service and the Department of Agriculture can and will again review the wilderness options as they develop new forest plans under the Resources Planning Act.

"New forest plans" is a clear reference to the second generation of plans, scheduled plans. An interim revision of the first generation of plans would not be called a "new" forest plan.

So, in light of this legislative history, we believe that CRS concluded too hastily that there is a clear "literal" meaning of the statute and that any revision to a forest plan would toll the soft release moratorium on the wilderness review.

Of course, to clear up any uncertainty, as you have pointed out, Mr. Chairman, the committee in its report can make clear the intent, and certainly, you are laying on the table this morning what the intent is behind that provision. And we have no objection to that approach.

Second, the CRS analysis inadequately considers the RPA regulations. The analysis fails to mention that there are three types of alterations in forest plans that are possible—amendments, significant amendments, and revisions. The point is that there are ways of making major changes to the plan without doing revisions of the plan. A significant amendment would be such a change that would probably require a full environmental impact statement. A good example would be an unplanned, major expansion of a ski resort, for example.

So, lots of things can happen without there being any revisions at all.

The third point is that the problem addressed by CRS is not a real problem. Obviously, since most of the plans have not yet been approved, it is a hypothetical problem. The Forest Service is now expressing the view that soft release language needs to be tightened, but in the past, the Forest Service has not said that they have found any loopholes in the language.

But perhaps most important, is that the CRS analysis—and this is no fault of the analysis—does not address what we see as the real problem. There always has been a dispute about release language between conservationists and development interests. That dispute has never involved the question of whether soft release will really last for the first full generation of forest plans. Instead, the dispute has been over how many generations of forest plans should release apply. Soft release would release lands for one generation; the Wyoming release would release the plans for two generations, and the year 2000 in that regard is misleading, because the language says that the lands are released for all plans which are approved before the year 2000. The second generation would be approved in the late 1990's, but would cover the period 10 to 15 years after that. So the release language would last for two generations or 30 years, which is a long time. The wilderness system as such has only been in existence for 18 years, since 1964, so we think that is a long time. These hard release provisions, whether that is permanent release or Wyoming release, insofar as they eliminate the wilderness option from the forest planning process, do damage to the acts governing management of the national forests, in particular the Resources Planning Act, the National Forest Management Act, and the Multiple-Use Sustained Yield Act, which Mr. Crowell called "a wise act" this morning, and we agree, and wilderness is listed as one of the multiple uses that is consistent with all of those acts.

We are concerned that hard release would relegate wilderness to a second class status in a newly established priority of uses of the national forests.

So we are skeptical about the criticism of soft release, that it will not accomplish its stated objective, which we support, of releasing lands for the first generation of plans. We are concerned that this is an attempt to get the nose of the camel into the tent, and that what is really going on here is an attempt to reopen the whole release debate.

We are particularly concerned that none of the proponents of permanent release or Wyoming release have said that if the soft release language is tightened up, they will be satisfied. In fact, Mr. Crowell, once again, is testifying in favor of much longer release, either permanent release or at least Wyoming release.

In conclusion, we believe that this problem, if there is one, can be solved by clarifying committee report language, and that option, we would be glad to consider.

Thank you for this opportunity to express our views.

The CHAIRMAN. Thank you very much.

I am a little surprised at the broad area of agreement in terms of the legislation itself, and this is pretty much the case with a lot of issues. If everybody understood everybody else's motivations there wouldn't be nearly as much confusion.

How many members do you have, Dr. Cox?

Dr. COX. Five thousand four hundred and seven right now, 93 counties.

The CHAIRMAN. And each one of them has written me four times. (Laughter.)

Dr. Cox. They are very concerned, Senator, about potential amendments. They are very concerned.

The CHAIRMAN. Yes, I gathered that, and you may tell them that this Senator is not sitting here to do violence to any reasonable goal.

You mentioned, "as presently worded." I might add that that is a little bit unusual in testimony, because I have never seen a piece of legislation go through the Senate that could not be improved.

We have talked about compromise and negotiation. I remember one time, I worked with the late Senator Humphrey on a piece of legislation, and Senator Humphrey was not known as a violent conservative, nor am I known as a liberal, but I loved him, and we had a very good relationship. But we finally worked out all of the differences. I do not know whether you knew Senator Humphrey or not, but he was just a delightful man, and he said, "Well, Jesse, you are bound to have one more criticism of this bill." And I said, "Just one. You have a split infinitive right down here in section 17," or whatever it was, and I said, "Miss Annie Lee, my English teacher is in heaven now, but she would not like that."

And he said, "Well, for God's sake, let's correct that split infinitive." So we got that straightened out.

And I am not being picky, Dr. Cox. You said "standard release language." I do not know of any standard release language. Now, some of the language has been incorporated into wilderness bills for several States, but other release language has been passed, as you have indicated yourself, by the Senate, and the committee is just beginning to look at a number of eastern wilderness bills, and I do not believe that Congress as yet has a standard release language.

"Hard release," "soft"—these are just words—are you on the faculty of the university?

Dr. Cox. Yes, sir, I am.

The CHAIRMAN. Well, let me say this in all friendliness. I have a responsibility as a Senator to look at the broad spectrum, those thousands of people who make their livings in the furniture industry and in the timber industry, lumber, who pay the taxes and pay our salaries. I guess I am just hooked on my responsibility and duty, as I see it, to analyze their point of view, too. The Lord did not give me the ultimate in wisdom, and that is the reason I have wanted to hear everybody and hear their stories. I do not want to be didactic about that, but on the other hand, for us to just take a piece of legislation which is satisfactory, even though it has been worked out by people exclusive of that guy who picks up his lunch pail and goes to the furniture factory to make his living, or the lumber industry, or whatever, I think he has a say in this, too. That is the reason I have been so insistent that we take a careful look at this thing and not race it through in the closing days of the session, without hearing from them, and that sort of thing.

Dr. Cox. Well, in that spirit, I wonder if I could respond to a couple of the points you have raised.

The CHAIRMAN. Sure, sure.

Dr. Cox. In terms of members of the timber industry being represented I might point out that in the Governor's Wilderness Task Force, and during the 2-day discussion, members of that industry

outnumbered our one environmental representative from the Sierra Club by about 5 to 1.

The CHAIRMAN. I know.

Dr. COX. We have worked with representatives of the timber industry, and in terms of the economic impact of wilderness designation, I might call to your attention a cost benefit analysis study performed by North Carolina State University School of Forestry, that points out that in fact, wilderness management was one of the most optimal management options in terms of maximizing economic returns from the forest.

We are not asking for anything that would approach the withdrawal of productive commercial timber from the roadless area base; 9 percent of 1.2-million acres is less than a tithe.

Senator, I think that the specific wording that I was referring to is not merely a matter of words. There is a very clear intent behind it. You asked each of the other gentlemen, I believe, earlier, what their understanding of the intent of the language was at that conference, and I would like to comment on that point, also.

The CHAIRMAN. I was going to ask you to.

Dr. COX. Thank you. I talked with Jim Dockery just this morning on that issue—he represented us during that conference. It was his understanding that the intent very clearly was to abide by the orderly process set forth in the 1976 National Management Act, which this committee affirmed, and Mr. Crowell's regulations promulgated in 1982 in the Federal Register, that say in very simple and clear language that any Federal judge could read, that the forest plan shall ordinarily be revised on a 10-year cycle, or at least every 15 years. Now, if we begin to write specific dates into North Carolina's bill—the national uniform procedures have been set out quite clearly, which Mr. Crowell obviously supports, in 1982—then we begin to muddy the water a little bit.

But beyond that substantive change in the act—not just words—I worry about an atmosphere of confusion and questions that would be raised after we have spent time talking with the timber industry and have yielded on a number of these areas that people feel very passionately about out there in those western counties. If we were to amend by changing the statute itself, as opposed to the intent in the legislative history, Senator, I feel we may reopen some of those wounds, and raise some of those old questions.

I cannct emphasize strongly enough that it is an issue that would be raised. Now, the legislative intent that you are establishing in the hearings process and in all of the discussions that have preceded this bill make it quite clear that we are not going to jump back into this thing in 1986 and request another 60,000 acres in wilderness. That is not our intention, and we have entered into this process in good conscience, and I believe that is one reason why we are so disturbed now to hear that some may want to fiddle around with the language a little bit.

I urge this committee's support of the bill as it was intended, the spirit of that bill. We do not want to see the emotional controversy and the misinformation that plagued those western counties again.

The CHAIRMAN. Thank you.

Mr. FULLER. Senator, I would like to just interject a brief point. Our representative from my home district, Congressman Broyhill,

as you know, supports H.R. 3960. Certainly, he is very knowledgeable about the hardwood furniture industry's timber requirements. Also, although I have not been empowered to speak for my relatives, my family in Hickory is also involved in the furniture business, and I certainly would not support a significant reduction of North Carolina's timber resources and designation of areas included in the bill will do so.

The CHAIRMAN. Are there further comments?

Mr. COPPELMAN. No, Mr. Chairman.

The CHAIRMAN. Well, you are three articulate gentlemen.

What we have, as I review the testimony by all witnesses this morning, is a virtual unanimity as to the intent. I must say that if that is the intent, the agreed unanimity, what is the difference between that and being specific? But maybe that is a minor point. I just want to be sure that we are all singing from the same hymn book. If we lived in a community in 1785, and there were about 10 families, we could all get together and handshake, but unfortunately, in a Nation of 240 million people, that is a little bit different. But I think it is going to work out all right.

I appreciate so much your coming and sharing your time. I know it is a sacrifice, but that is a part of Government, too. It is nice to have you here.

If nobody has any further comment, we will close these proceedings so that you can go your merry way.

Thank you very much.

[Whereupon, at 12:02 p.m., the committee adjourned, subject to the call of the Chair.]

31-935 O—84——5

APPENDIX

STATEMENT HON. WALTER D. HUDDLESTON, A U.S. SENATOR FROM KENTUCKY

Mr. Chairman, H.R. 3960 would establish seven new wilderness areas on 53,590 acres of national forest land in North Carolina and would add over 15,000 acres to four existing wilderness areas. The bill would also direct that an additional 25,816 acres be studied for possible future inclusion in the wilderness system. It is my understanding that the various groups having an interest in this land worked together in developing this legislation.

The cooperation of local groups, representing divergent interests, and Members of Congress representing the area is the approriate manner to handle issues of this nature. Local citizens and groups are well qualified to determine the uses of certain parcels of national forest land. For that reason, I believe the committee in considering this legislation, should give substantial weight to the recommendations of these local groups and the congressional delegation.

I look forward to reviewing the testimony of today's witnesses.

STATEMENT OF HON. JOHN P. EAST, A U.S. SENATOR FROM NORTH CAROLINA

Mr. Chairman, the North Carolina Wilderness Bill is important to North Carolina. The broad range of testimony to be heard here today will be very helpful to use as we seek a balanced solution to our Federal land use in North Carolina. I intend to review closely today's testimony before any further action is taken on this legislation.

I deeply regret that I will be unable to be with you as you proceed to what will be a full day. As a Member of the Committee on the Judiciary, it is important for me to hear testimony before the Subcommittee on Juvenile Justice on a difficult problem facing our educational system, violence in the schools. Congressional attention to this issue is also critical to North Carolina.

Mr. Chairman, many people in North Carolina have been waiting for this day. The questions of wilderness—when and where and why and how much—have been with us for some time. The 1979 RARE II report has served mainly to put on edge various interests. Some in North Carolina wish more land in wilderness and others less.

It is the proper time to take a thorough look at this proposal; to do our best to resolve this long-standing issue on the side of what is best for the public interest and best for North Carolina. I pledge to help accomplish this.

Mr. Chairman, there are concerns to be considered other than the extent of land to be set aside as wilderness. These elements include, but are not limited to, release language and so called buffer zones. We know this bill will have great impact on North Carolina's future. This is why we remain so concerned about a balanced approach. This is why we wish to assure an effort that is fair and reasonable to all the interests involved, to the environmental side, the development side, and all other North Carolina citizens.

Mr. Chairman, I believe it is important to keep in mind that these public lands were set aside originally for multiple use management; timbering, hunting, fishing, mining, recreation, and other purposes. The fact is that since the forest system was devised, multiple-use management remains desirable even as we consider wilderness areas. I do not foreclose designating wilderness because I recognize the inherent value of this management policy.

We are reminded, however, that only Congress can designate wilderness. Paramount to this legislative task is the full consideration of the interests and desires of the citizens of North Carolina. The testimony you receive today will assist greatly in bringing about a balanced resolution to the wilderness question.

Mr. Chairman, I look forward to working with you in this decision-making process. I commend your extensive work in affording opportunity for all interests to be heard and involved.

STATEMENT OF HON. JAMES MCCLURE CLARKE, A U.S. REPRESENTATIVE FROM THE 11TH DISTRICT OF NORTH CAROLINA

Mr. Chairman and Members of the Committee: I am pleased to have the opportunity this morning to testify in support of H.R. 3960, the North Carolina Wilderness Act, which designates approximately 68,000 acres of national forest lands as additional wilderness and releases 114,000 acres for multiple use. Approximately 26,000 acres of the North Carolina national forests will become congressionally designated study areas if this legislation is adopted.

After years of study and discussion, interested parties, groups, organizations, businesses, and individuals have reached a compromise that is reflected in this legislation. This is a significant achievement after years of controversy. It carries out the original recommendations of the U.S. Forest Service for wilderness designation in North Carolina contained in the 1979 RARE II study.

The bill which you consider today is a real bipartisan effort which was cosponsored by every Member of the North Carolina House delegation, and I am deeply grateful for their support. Everyone involved felt that the time had come to end the debate over the wilderness issue and to take definitive action.

The bill assures the timber industry of protection from lawsuits filed as a result of a 1982 federal court decision, while protecting other areas for future generations. It also clarifies management decisions for the United States Forest Service and relieves them from the expensive and time consuming task of an unnecessary RARE III study. All of the Members of the North Carolina House delegation feel this measure is a positive step forward and this was futher reflected in the overwhelming support the bill received when it passed the House November 16 by a vote of 398–21.

If enacted the North Carolina Wilderness Act will preserve our State's public lands for the present and future enjoyment of all of the people of North Carolina.

Mr. Chairman and Members of the Committee, once again, thank you for this opportunity to testify before you today regarding H.R. 3960, the North Carolina Wilderness Act.

MACON COUNTY BOARD OF COMMISSIONERS,
MACON COUNTY COURTHOUSE,
Franklin, N.C.

To: Jesse Helms, Chairman, Committee on Agriculture, Nutrition and Forestry.
From: Members of the Macon County Board of Commissioners.
Subject: The North Carolina Wilderness Bill.
Date: January 23, 1984.

HON. JESSE HELMS: Recently it has been brought to our attention that an additional 66,890 acres of National Forest land have been submitted through your bill for inclusion in WILDERNESS.

As you recall we do not support any future WILDERNESS in western North Carolina. 33,960 acres have been proposed for western North Carolina and of this, 14,100 acres are in Macon County.

We the undersigned members of the Macon County Board of Commissioners are opposed to anymore wilderness in Macon County or in North Carolina.

Respectfully submitted,

MEMBERS OF THE MACON COUNTY BOARD OF COMMISSIONERS,
C. SILER SLAGLE, *Chairman.*
TURNER DEHART, *Member.*
DOLEN BATES, *Vice-Chairman.*
MILLES A. GREGORY, *Member.*
CLARENCE E. MASON, *Member.*

STATEMENT OF HON. JOHN B. CROWELL, JR., ASSISTANT SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT, U.S. DEPARTMENT OF AGRICULTURE

Mr. Chairman and Members of the Committee: I am pleased to have this opportunity to present the Administration's views on H.R. 3960 that would designate additional wilderness in the State of North Carolina.

Before I discuss the Administration's position on this bill, I would point out that the Administration fully supports the concepts of wilderness as an important use of Federal lands. Wilderness provides recreational, scientific, and social values. To date, this Administration has supported legislation for adding 2.9 million acres of National Forest System lands to the National Wilderness Preservation System. It is very clear, however, that more wilderness must be balanced with the Nation's needs for other forest resources which are limited or precluded by wilderness designation. This balance is brought about by a careful case-by-case evaluation of wilderness characteristics of roadless areas, the extent of already existing wilderness areas in the same region, the use and pressures on such already existing wilderness areas, the value of the resources to be foregone if the area is designated wilderness, and similar considerations.

The State of North Carolina contains approximately 20 million acres of forest land (66 percent of the State's total land base) of which only 1.2 million acres are within the National Forest System. At the current time, 31,500 acres of National Forest System lands and 8,800 acres of other Federal lands are within the National Wilderness Preservation System. H.R. 3960 would designate an additional 68,740 acres of wilderness which would bring the State total to 109,000 acres. Approximately 100,000 acres of the total would be within the National Forest System.

H.R. 3960 would designate 68,740 acres in seven new wilderness areas and four additions to existing wilderness areas in the State of North Carolina. These areas include Birkhead Mountains, Catfish Lake South, Ellicott Rock Addition, Joyce Kilmer Addition, Linville Gorge Addition, Middle Prong, Pocosin, Pond Pine, Sheep Ridge, Shining Rock Addition, and Southern Nantahala. The Department of Agriculture continues to support designation of these areas as additions to the National Wilderness Preservation System. All 11 areas were recommended for wilderness designation by the RARE II process completed in 1979.

Mr. Chairman, we would like to point out that in two areas, Ellicott Rock Addition and Southern Nantahala, only the portions within the State of North Carolina are to be designated. Both of these areas also include lands in other States. The Ellicott Rock Addition includes 3,100 acres in the State of Georgia and 1,900 acres in the State of South Carolina. Southern Nantahala includes an additional area in the State of Georgia. It may be desirable for the Committee to consider designating the portions in the adjoining State at the same time the portions of the areas in North Carolina are designated.

Section 5 of the bill releases those roadless areas not recommended by RARE II for wilderness designation from the need to be considered for possible wilderness designation during the initial National Forest land management planning process. Section 5 of the bill also provides a delcaration of legal sufficiency of the RARE II Environmental Impact Statement for North Carolina areas. This means that areas in North Carolina not recommended by RARE II for wilderness can be devoted to multiple use without threat of legal challenge on the charge that RARE II inadequately complied with the requirements of the National Environmental Policy Act.

The declaration in section 5, that the RARE II Environmental Impact Statement is legally sufficient and that adequate consideration has been given to the wilderness and nonwilderness values for all roadless areas in the State of North Carolina, will save considerable time and money that would be required to carry out additional review of these roadless areas in the Forest Land Management Plan.

The release language in the House passed version of H.R. 3960 would perpetuate the current uncertainties over the land base that will be available over the long-term for nonwilderness multiple use activities. Local communities have a right to have some certainty over the land base which will be available to support economic activities upon which their future well-being depends. Under the language of the bill, if a change in physical conditions or litigation results in the need to revise the Forest Plan in only, for example, 2 years, the entire roadless area review and evaluation question would again be raised. This would be extremely disruptive and a waste of Forest Service time and manpower.

We believe that, since Congress has considered roadless and undeveloped lands in the State of North Carolina for designation as wilderness and is in the process of enacting wilderness legislation, the remaining National Forest System lands not designated as wilderness or for study should be released in this bill from any requirement to be considered in any future National Forest plan for possible wilderness designation. Congress, of course, can at any time consider such possible additional designations, regardless of what Forest Service recommendations may have been.

The Administration, therefore, strongly recommends that the release language contained in section 5 of the bill be amended to provide permanent or at least more

long-term stability to the National Forest System lands not designated by this bill or currently in the National Wilderness Preservation System. Language for accomplishing this purpose has been supplied to the Committee staff.

Section 6 of the bill would establish five wilderness study areas. These five areas were included in the RARE II inventory and were recommended at the conclusion of RARE II for further planning. Further planning areas are being studied at the current time as a part of the land management planning process mandated by the National Forest Management Act of 1976.

In the case of *Southern Appalachian Multiple Use Council* v. *Bergland*, decided in 1981 by the United States District Court for the Western District of North Carolina, the court held that when further planning areas east of the 100th meridian are studied as part of the National Forest Act, one of two broad decisions can be reached. The decision can be either to manage the area for multiple use purposes other than wilderness or to recommend the area to Congress for designation as a wilderness study area.

Section 6 of H.R. 3960 states that the study areas shall be managed so as to protect their wilderness values until Congress determines otherwise. Such a provision is tantamount to designating now all the study areas as wildernesses. The Administration recommends, instead, that section 6 be amended to provide protection of the wilderness values of the areas while the studies are being conducted and, thereafter, to continue such protection only for those areas subsequently recommended to Congress for designation as wilderness until such recommendation may be changed by a subsequent Forest plan. Language for the proposed amendment has been provided to the Committee.

Mr. Chairman, the Department of Agriculture recommends enactment of H.R. 3960, if sections 5 and 6 are amended as suggested.

This concludes my prepared statement. I will be happy to answer any questions you may have.

[The following material was inserted by Mr. McGough, see p. 16 for oral reference:]

WESTERN NORTH CAROLINA
DEVELOPMENT ASSOCIATION, INC.,
Asheville, N.C.

RESOLUTION

Whereas the United States Forest Service completed a very detailed, complex and time-comsuming study and evaluation of approximately 207 thousand acres of national forest lands in North Carolina under the RARE II process; and

Whereas RARE II was admittably an awkward, tedious and expensive process, the resulting recommendations for North Carolina were based on objective, thorough and reasonable studies and involved a great amount of public involvement and discussion; and

Whereas the United States Forest Service is now initiating a reevaluation of all roadless areas originally identified under RARE II as a result of litigation in California over Environmental Impact Statements; and

Whereas another full study of the RARE II areas will seriously disrupt normal Forest Service activities, cost millions of dollars nationally, rekindle old animosities and accomplish very little; and

Whereas continued delay in making final decision on the ultimate usage of the forest service lands studied is unnecessarily disruptive to the economy of North Carolina and denies or limits access and usage by our citizens and proper management and harvest of forest lands; and

Whereas this burdensome and expensive procedure can be avoided if legislation is passed to confirm the recommendations of the U.S. Forest Service for North Carolina and implemented as follows:

1. The areas (65,781 acres in North Carolina) recommended for "Wilderness" under RARE II should be designated as components of the National Wilderness Preservation System. Each of these units would be listed individually by name and acreage in the law.

2. Those areas (114,588 acres in North Carolina) recommended as "Non-wilderness" should be formally released from any and all constraints to full multiple use management. The legislation must confirm the sufficiency of the RARE II Final Environmental Statement for these units.

3. Each of the RARE II "Further Planning" areas (26,831 acres in North Carolina) should be thoroughly studied and formally designated wilderness or non-wilderness within a designated time after the proposed legislation becomes law.

Now therefore, be it resolved that the Board of Directors of the 18-county Western North Carolina Development Association, Inc. does urge that the North Carolina delegation to the United States Congress initiate efforts immediately to seek legislation to finalize these recommendations and complete the wilderness system in North Carolina.

Adopted this 19th day of May, 1983. E. CHARLES DYSON, *Secretary.*

Attest: Morris L. McGough, Executive Vice President.

A STATEMENT ON RARE II BY FORESTRY COMMISSION, WESTERN NORTH CAROLINA DEVELOPMENT ASSOCIATION

(Prepared by The RARE II Committee, Tom Cathey (Chairman), Pete Hanlon, Helen Reed and Charles Woodard)

A recent court decision in California has declared the RARE II Environmental Impact Statements for 46 roadless areas in that state insufficient, invalidating all associated land classifications and jeopardizing the RARE II recommendations nationwide (except those in Alaska, Colorado, New Mexico, Missouri, West Virginia and Indiana). In response to this threat, the USFS has initiated a reevaluation of all roadless areas originally identified under RARE II. This analysis is to take place within the National Forest Management Act.

We believe that another full study of the RARE II areas will seriously disrupt normal Forest Service activities, cost millions of dollars, rekindle old animosities, and accomplish very little. This painful task will be unnecessary if legislation can be passed to confirm the disposition of lands originally considered under RARE II. Since it appears unlikely that the problem will be resolved on a nationwide level, we are advocating legislation aimed at a solution for North Carolina.

Although RARE II was an awkward, tedious and expensive process, we feel that the resulting recommendations for North Carolina were based on objective, thorough and reasonable studies. It would therefore seem logical to use these recommendations as a basis for resolving the wilderness question in our state.

We specifically endorse legislation which will accomplish the listed objectives.

1. The areas (65,781 acres in North Carolina) recommended for "Wilderness" under RARE II should be designated as components of the National Wilderness Preservation System. Each of these units would be listed individually by name and acreage in the law.

2. Those areas (114,588 acres in North Carolina) recommended as "Non-wilderness" should be formally released from any and all constraints to full multiple use management. The legislation must confirm the sufficiency of the RARE II Final Environmental Statement for these units.

3. Each of the RARE II "Further Planning" areas (26,831 acres in North Carolina) should be thoroughly studied and formally designated wilderness or non-wilderness within three years of the date the proposed legislation becomes law.

We suggest that this legislation for North Carolina be modeled after Public Law 96-560—96th Congress—December 22, 1983, which addresses the classification of RARE II areas in Colorado.

Unless this problem is resolved in an expeditious manner, the United States Forest Service, the people of North Carolina, and all United States taxpayers will suffer under the burden of unnecessary work, controversy, and expense. We strongly recommend that this legislation be assigned a high priority and introduced for enactment as public law at the earliest possible date.

[The following information was supplied by Kenneth Davis, Society of American Foresters, Nantahala Chapter, Franklin, N.C.]

DEFINITION OF WILDERNESS

An area where the earth and it's community are untrammeled by man, where man himself is a visitor.

REDEFINED

"Undeveloped Federal land of at least 5,000 acres of outstanding solitude with imprint of man's work unnoticeable."

The Society of American Foresters Policy Director in June, 1981 appeared before the Senate's Energy and Natural Resources Subcommittee on Public Lands. He stated:

"Of the 62 million acres considered for wilderness, 25 percent (15.4 million) were recommended for wilderness, 17 percent (10.6 million were recommended for further planning and 58 percent (36 million) for non-wilderness."

The above recommended area would bring the National Forest total wilderness to 18 percent or 33.8 million acres.

The Society of American Foresters is keenly concerned about the costs of the United States Forest Service is bearing by wilderness allocation decisions due to withholding study areas for timber production. They further believe these decisions should be expedited in order to cut costs for the National Forests.

Without derogation of the inadequacies of RARE II, the Society of American Foresters believes that the data collected from RARE II can be used to make available as quickly as possible areas outside the wilderness system for production of the country's wood.

If properly implemented, this would reduce substantially the costs of establishing the designated wilderness areas and obtain the sustained yield program now set up on the National Forest system.

Focusing on North Carolina . . . we find that presently the National Forests in North Carolina have the following established wilderness areas:

1. Joyce Kilmer—Slickrock	10,201
2. Shining Rock	13,350
3. Linville Gorge	7,575
4. Ellicott Rock	342
	31,468

	Acres	Existing Wilderness
Pisgah	493,000	20,925
Nantahala	515,000	10,543
Croatan	157,000	
Uwharrie	46,000	0

Considering the fact that with the existing wilderness areas containing 31,468 acres on National Forest and the Great Smokey Mountain National Park and Cherokee Indian Reservations, all of which are located in Western North Carolina, these areas should be very adequate to serve the needs of solitude seekers.

Great Smokey Mountains National Park alone has:

North Carolina	273,550
Tennessee	344,108
Total	515,000

And the Cherokee Indian Reservation has 56,000 acres.

With demand for high quality hardwood and pine lumber extremely great in the foreseeable future and lumber prices escalating at a fast rate, we recommend that a maximum amount of Federal land be kept in timber production and under multiple use management.

Therefore, our committee has agreed to recommend and ask for your support of NO FURTHER WILDERNESS AREAS IN WESTERN NORTH CAROLINA.

We further ask that a written recommendation be forwarded to the Society of American Foresters' Policy Director, Chief of the United States Forest Service, our Senators and Congressmen and the Forest Supervisor of North Carolina's National Forests.

Note: A vote was taken and the above was unanimously approved by the Natahala Chapter of the Society of American Foresters.

STATEMENT OF DR. J. ROBERT COX, NORTH CAROLINA CHAPTER OF THE SIERRA CLUB

My name is Dr. J. Robert Cox. I am a resident of Chapel Hill, North Carolina, and a member of the executive committee of the N.C. Chapter of the Sierra Club. I am testifying today on behalf of the N.C. Chapter of the Sierra Club.

The Sierra Club has over 5,400 members in ninety-three of North Carolina's one hundred counties. Our members use North Carolina's national forests for educational and recreational purposes; we have participated actively in RARE–II and in the current USFS planning process.

I should like to make clear the Club's position at the outset: H.R. 3960 is a compromise bill. It represents many long hours of discussion and concessions by conservationists, business and timber representatives, members of North Carolina's Congressional delegation, and State officials who have worked together to try to resolve the issues of RARE–II in North Carolina.

The N.C. Chapter of the Sierra Club supports H.R. 3960 *as presently worded.* We are particularly concerned that three features of this bill be maintained:

(1) The designation of 68,750 acres in eleven areas as wilderness;

(2) Inclusion of standard release language in Sec. 5; and

(3) The designation of 25,816 acres in five areas as wilderness study areas.

First, we believe that H.R. 3960 provides the "rockbottom" minimum protection to RARE–II wilderness areas. Although more than 207,000 acres of national forest lands were identified as suitable for wilderness consideration in RARE–II, the bill before you actually extends protection to much fewer acres: 68,750 acres in eleven areas as "wilderness," and another 25,816 acres in five areas as "wilderness study areas." Much deserving acreage—particularly in Southern Nantahala, Middle Prong, and Shining Rock Wilderness Extension—would be released by this bill from further wilderness consideration in the current Forest Service planning cycle. In fact, the combined acreage of existing and new wilderness in H.R. 3960 represents less than 9 percent of the 1.2 million acres of national forest lands in North Carolina.

Nevertheless, the Sierra Club has cooperated with business and timber leaders and State officials in the past year in an effort to reach a resolution of RARE–II in North Carolina. None of the parties to these discussions got everything it wanted; for its part, the Sierra Club agreed to drop its insistence that many valuable areas be included in this legislation.

For example, the Sierra Club has long sought protection for many areas which this bill will not cover. In H.R. 3960,

Harper Creek, Lost Cove, Craggy Mountain, Snowbird, and Overflow Creek would be classified only as wilderness study areas;

The upper reaches of Cheoah Bald, Balsam Cone, and Big Creek would be released for non-wilderness uses;

Middle Prong Wilderness acreage would be reduced by one-third;

Acreage needed to provide a buffer for the Shining Rock Wilderness would be cut in half;

Crucial acreage in the popular Joyce Kilmer/Slickrock Wilderness would be omitted; and

Approximately 30,000 of the 40,000 acres of Southern Nantahala (Standing Indian) would be released for logging and other non-wilderness uses, including the virgin timber stands of secluded Muskrat Cove.

Altogether over 112,000 acres or about 54 percent of roadless areas surveyed in the RARE-II process would be released by this bill for timber and other development purposes.

Some of the excluded areas—such as Dark Prong and the area west of Sam's Knob on the edges of the Shining Rock Wilderness—are among the wildest regions in North Carolina forests. So rugged is the Dark Prong basin that a lone hiker with no trails to follow must take five hours to walk just two miles!

In addition to minimum wilderness acreage, two other issues have been critical to the Sierra Club's support of H.R. 3960:

(1) Inclusion (Sec. 5) of standard release language; and

(2) The designation of five areas in the Pisgah and Nantahala National Forests as Wilderness Study Areas (Sec. 6).

An absolutely essential ingredient of H.R. 3960 is the standard "release" language of Section 5.

In Sec. 5.(b)(1), Congress finds that RARE-II "shall not be subject to judicial review with respect to national forest system lands in the State of North Carolina" and further that with respect to the lands surveyed in RARE-II North Carolina, except those lands designated as wilderness or for wilderness study in Section 6 or

by previous Acts of Congress, "that review and evaluation shall not be deemed for the purposes of the initial land management plans . . . to be an adequate consideration of the suitability of such land for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle". [Sec. 5.(b)(2)]

Such language, we believe, is crucial for two reasons. First, it satisfactorily resolves the uncertainties of *California* v. *Bergland*.

In affirming the district court's finding, the U.S. Circuit Court of Appeals held that the U.S. Forest Service inadequately assessed the wilderness values of lands recommended for "non-wilderness" in RARE-II. So long as such lands remain subject to further review and evaluation by the USFS, they cannot be released for development purposes. H.R. 3960 resolves the uncertainty of such areas in North Carolina through Congress' determination (Sec. 5) of RARE-II "to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System," thus releasing them for non-wilderness uses.

The wording of Sec. 5 is important for a second reason: Standard release language safeguards the right of future generations, through the Forest Service planning process, to assess the value of these lands for themselves.

Those who would urge "hard" release language go beyond what is necessary to resolve the issues of *California* v. *Bergland*. By amending Sec. 5 to state that areas not now designated "wilderness" may never be reconsidered, the bill would severely prejudice the review process in future national forest management planning. Similarly, affixing a date before which the wilderness option may be reviewed would be an arbitrary intrusion into the National Forest Management Act's procedures for an orderly planning process. The N.C. Chapter of the Sierra Club firmly opposes any such blanket declarations.

The wording of Section 5 follows the precedent Congress has established in other states' wilderness bills for the equitable resolution of RARE-II on a state-by-state basis. The N.C. Chapter of the Sierra Club is firmly committed to this language and supports H.R. 3960 on this basis.

Also critical to conservationist support of this bill is the inclusion (Sec. 6) of five wilderness study areas: Harper Creek, Lost Cove, Snowbird, Overflow, and Craggy Mountain.

Though their combined area (25,816 acres) represents only 1.2 percent of national forest lands in N.C., their importance cannot be underestimated. For example, the location of Harper Creek and Lost Cove on the Blue Ridge escarpment in Avery and Caldwell Counties makes these areas easily accessible to major population centers of North Carolina. Community, educational, religious, and recreational groups make extensive use of the well-developed trail systems of this scenic region. Citizens of various ages and abilities—even the young woman with cerebral palsy who visited Harper Creek with a Sierra Club group from Winston-Salem last year—are able to view the rugged cliffs, cascading water falls and hardwood forests of these outstanding wilderness areas.

The Snowbird Wilderness Study Area southwest of Robinsville in Graham County also deserves further review by the Forest Service. Nestled at the head of Snowbird Creek in the Unicoi Mountains are the high ridges and balds of Mitchell Lick, Laurel Top, and Hooper Bald (the highest at 5,429 ft.). Remnant stands of virgin forest may still be found in these upper reaches.

Craggy Mountain and Overflow share many of the outstanding wilderness features of the study areas just described. Public use and support for these areas make it essential that the U.S. Forest Service continue to manage them for their wilderness qualities while further study and evaluation proceed.

The Sierra Club supports H.R. 3960 as presently worded and urges its passage in the 98th session of Congress.

Further restrictions on wilderness acreage or changes in the standard release language of Sec. 5 would irreparably weaken this bill and undermine the broad bipartisan support for it. The compromise reached by state agencies, conservationists, and timber interests reflected in this bill extends significant protection to wilderness, releases 112,000 acres of roadless areas for development purposes, and allows the planning process in North Carolina to go forward.

N.C. citizens have always had a deep love for their forests, mountains, and coastal lands. Dr. Eugene P. Odum, internationally respected as the "Father" of ecology, has written recently: "Ever since the first European settlers declared this area to be 'the goodliest land under the cope of the heavens,' its residents have boasted of their

precious heritage of natural resources. . . . It is difficult to find prettier country or prouded people anywhere.

The time is now to resolve the issues of RARE–II in North Carolina and to extend protection to many unique and irreplaceable portions of our wilderness heritage.

STATEMENT OF MANLEY FULLER, RESOURCE SPECIALIST, SOUTHEASTERN NATURAL RESOURCE CENTER, NATIONAL WILDLIFE FEDERATION

Mr. Chariman, my name is Manley Fuller. I am the wildlife resources specialist with the Southeastern Natural Resources Center of the National Wildlife Federation in Raleigh, North Carolina.

The NWF is the world's largest conservation-education organization. NWF has over 4 million members and supporters including 51 affiliated state and territory-wide organizations.

Today, I am also representing the North Carolina Wildlife Federation, our state affiliate, which is North Carolina's largest conservation organization with over 30,000 supporters.

We appreciate the opportunity to provide testimony here today. North Carolina is experiencing rapid population growth and there is a corresponding increase in pressures on the state's natural resource base. North Carolina's four national forests are subject to increasing development pressures from both within and without. Certain areas within the state's national forests have not been subject to intensive human development and still retain outstanding natural values. The proposed North Carolina Wilderness Act of 1983, H.R. 3960, will protect many of these areas from development pressures and will benefit those desiring recreational activities such as backpacking and hunting in a fairly pristine environment. Forest wildlife such as the black bear also will benefit from adoption of H.R. 3960. The National Wildlife Federation and North Carolina Wildlife Federation strongly support the proposed legislation and feels it will be in the best interest of natural resource conservation in the state.

Because of my personal experiences in the Croatan National Forest I will confine my specific remarks to that area. I have conducted research and field work in the vicinity of the Croatan for approximately 3 years and I am familiar with each of the proposed wilderness areas.

The proposed Croatan wilderness areas are all pocosin land. For those of you unfamiliar with the term, pocosin comes from an Algonquin word which meant "swamp on a hill". Pocosins were typically formed in broad flat areas with blocked drainage patterns. Accumulations of organic materials known as peat are formed in pocosins. Peat soils are normally saturated with water and are very acidic. Pocosin vegetation normally consists of dense growths of shrubs, small trees and vines such as fetterbush, bay trees, pond pine, and cat brier. An ecologist once described a pocosin as a tangle so thick you can't walk through it. The pocosin may best be envisioned as a freshwater, evergreen-shrub bog.

While pocosin-like habitats occur from New Jersey to northern Florida, they are most extensive in North Carolina.

One of the most significant features of the Croatan is that it contains the largest pocosin wetlands in public ownership in the world. Across eastern North Carolina in the last twenty years over two-thirds of the state's pocosin wetlands have been altered. Many have been drained and converted to large corporate farms or forestry operations. This draining of pocosin wetlands has often had adverse impacts on fish and wildlife. Large-scale peat mining may soon begin in coastal pocosins. Concerns about these land conversions center on water quality, fish and wildlife habitat, and impacts on the commercial fishing industry.

We believe that land management policy in the Croatan should be directed towards maintenance of large elements of the pocosin ecosystem. Designation of the four proposed wilderness areas within the Croatan National Forest—Catfish Lake, Pond Pine, Pocosin, and Sheep Ridge—will help to conserve a significant portion of a rapidly diminishing resource. Forest wildlife, such as the black bear, are experiencing habitat loss across eastern North Carolina and designation of the wilderness areas will maintain important bear habitat. An additional value of these wilderness areas will be as research sites for comparisons to converted pocosin lands.

In addition to the proposed pocosin wilderness areas identified in H.R. 3960, we hope that the U.S. Forest Service will implement management policies which do not include further ditching, road construction or activities which alter the hydrological characteristics of the extensive pocosin wetlands which are not included in this legislation, for example, the large pocosin area between the proposed Pocosin and Pond

Pine wilderness areas. We will be participating in the National Forest Planning process and desire that future management activities on these areas are both compatible with wetlands conservation and the needs of species requiring large tracts of unaltered habitat, such as the black bear.

We feel that conservation of pocosin resources should be an important aspect of management on both the proposed wilderness and nonwilderness areas in the Croatan.

Again, thank you for the opportunity to testify. Designation of these wilderness areas as identified in H.R. 3960 will definitely be in the best interests of natural resource conservation in North Carolina.

STATEMENT OF PETER D. COPPELMAN, REPRESENTING THE WILDERNESS SOCIETY

Mr. Chairman, I am Peter D. Coppelman, Director of Forest Wilderness Programs and Counsel of the The Wilderness Society.

The Wilderness Society is a non-profit conservation organization, founded in 1935, dedicated to the proper management of public lands and the preservation of wilderness areas. We appreciate the opportunity to address the Committee on the important issue of wilderness preservation in North Carolina, where we have over 1,000 members. Accompanying me today is Peter Kirby, Director of our Forest Management Program.

We support the North Carolina wilderness bill as passed by the House of Representatives. We are pleased with the broad consensus which has developed around the bill both within the North Carolina Congressional delegation and among various interest groups concerned with this issue in North Carolina.

This morning I would like to address the nationally important issue of release provisions in the bill. Mr. Chairman, you have expressed concern that the "soft" release formulation which Congress has used in all six statewide wilderness bills enacted into law may be inadequate. In particular, the Congressional Research Service recently issued in analysis (hereinafter "CRS Analysis") which notes that ". . . a literal reading of the soft release language could force reexamination of the wilderness potential of some areas as early as 1986." See Congressional Record S 17172, November 18, 1983. We object to relying on the CRS Analysis as a basis for altering the statutory soft release formula on a number of grounds. First, the analysis inadequately considers the legislative history of soft release; second, it inadequately considers regulations implementing the Resources Planning Act; third, it addresses a purely speculative problem; and fourth, it does not address the real problem.

INTRODUCTION

The Congress has been considering three versions of release language: (1) "soft" release as contained in the Colorado Wilderness Act of 1980 which established the bipartisan precedent on this issue and is contained in the House-passed North Carolina bill and several RARE II bills passed in the last two Congresses; (2) "hard" release, supported by the Administration, which was exemplified last Congress by the Hayakawa RARE II Review Act (S. 842) and the Huckaby nationwide release bill (H.R. 4047); and (3) a version of hard release in the Wyoming wilderness bill (S. 543; H.R. 1568). (See Appendix for full text of release provisions.)

"Release" language applies to nonwilderness lands within a state; that is, those lands which are not designated as wilderness or further planning areas, or given other protected status. The RARE II study itself released 36 of the 62 million acres studied by designating them "nonwilderness." (The Forest Service is treating these lands as released despite the decision of the Ninth Circuit Court of Appeals in *California* v. *Block*, October 22, 1982.) It should be noted that under all versions, the lands released are available for full multiple-use management, including nonwilderness development during the period for which they are released.

The Colorado Act's concept of releasing nonwilderness lands for the initial forest planning cycle ("soft" release) was developed as a compromise during the 96th Congress in negotiations among all parties interested in management of the national forest system, including environmental lists and timber industry representatives. This compromise solution established a pattern which is reflected in other statewide RARE II bills enacted during the 96th Congress for New Mexico and Alaska, and the 97th Congress for West Virginia, Indiana and Missouri. The state congressional delegations of Washington, Oregon, Vermont, Pennsylvania, Arkansas, Idaho, Montana, Virginia, Utah, Michigan, Mississippi, and many others are putting together RARE II bills for their respective states. Since it would probably make no sense for the National Forest System and the National Wilderness Preservation

System to be governed by different rules from one state to another, it is a virtual certainty that whatever release language prevails will be consistent throughout the nation. To change the pattern which has been established would require undoing the compromise resolution Congress with such difficulty reached in 1980 and enacted in six states. Indeed the Huckaby nationwide release bill would have specifically reversed the release language already enacted in Colorado, New Mexico, and Alaska [see Section 5(a)]. The Wilderness Society and other conservation organizations support soft release, and urge that it be retained in the North Carolina wilderness bill.

THE CRS ANALYSIS

The CRS Analysis focuses on this language in the soft release formulation: " . . . The Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans . . ." As stated in the CRS Analysis, Cong. Rec. 17172, November 18, 1983:

The other concern over soft release is the language that allows wilderness potential to be ignored until the revision of the initial forest plans. The interpretation of "revision" is the key to the concern. Section 6(f)(5)(A) of RPA as amended directs plans to be revised "from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every 15 years." The regulations for implementing forest planning give similar direction, although they limit the duration of the plans to 10 years [36 CFR 219.11(f)]. The current concern is that a challenge to an initial forest plan could force an immediate revision of the plan, without any period of implementation. If so, another wilderness analysis for those areas could begin as early as 1 year after an initial plan has been completed. This provides no period of stability for the industry, and is arguably contrary to the intent of soft release language, as stated in House Report 96-1223 (p. 54): "The Committee believes and expects, therefore, that the wilderness option for the roadless areas in nonwilderness multiple-use will not be reexamined in most cases until approximately 1993." The report language notwithstanding, a literal interpretation of the soft release language could force a reexamination of the wilderness potential of some areas as early as 1986.

INADEQUATE CONSIDERATION OF LEGISLATIVE HISTORY

The CRS analysis simply concludes—without further discussion—that a "literal" reading of the statutory language could require a wilderness review as early as 1986, because "revisions" to plans can occur prior to the scheduled revisions every 10–15 years referred to in the RPA statute and implementing regulations. CRS assumes without analysis that the statute has a clear "literal" meaning. To the contrary, the statutory language is ambiguous in its reference to the kind of "revision" which could trigger a reevaluation of wilderness.

The RPA statute and regulations contemplate two kinds of revisions: the first are regularly scheduled revisions which the statute says will occur "at least every 15 years" [Section 6(f)(5)(A)]. The regulations state: "A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years" (36 CFR 219.10(g)]. Second are unscheduled revisions which may occur, according to the regulations "whenever the Forest Supervisor determines that conditions or demands in the area covered by the plan have changed significantly or when changes in RPA policies, goals, or objectives would have a significant effect on forest level programs." (ibid.) Further, the regulations direct the forest supervisor to review conditions of the land "at least every five years" to determine if changed conditions warrant a revision.

CRS analysis assumes that either type of revision would toll the moratorium on wilderness review contained in the soft release language. But a careful reading of the statutory language does not support this interpretation. The soft release language states: ". . . the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans . . ." In our view if Congress intended to allow any kind of revision to satisfy this language, it would have referred to "a" revision, and not "the" revision. By referring to "the" revision the definite article it appears that Congress had a specific revision in mind, and that would be the regularly scheduled revision, not just any revision of the plan.

At best the statute is unclear and ambiguous. In that case, resort to legislative history is appropriate to determine Congress' intent. Without going into great detail, that history shows that Congress did indeed intend to defer a wilderness review until the second regularly scheduled forest planning cycle.

A strong indication is, of course, the language of House Report 96-1223 on H.R. 7702, the proposed California wilderness bill. Negotiations on this bill led to the soft

release formulation. As cited by CRS, the House Report notes at p. 54: "The Committee believes and expects, therefore, that the wilderness option for the roadless areas will not be reexamined in most cases until approximately 1993" [in the second generation of plans]. There are other, equally strong statements of Congressional intent. Senator Armstrong, a key sponsor of the Colorado wilderness bill, which used the soft release formula, stated during Senate consideration of the Conference Committee Report on the Colorado wilderness bill: ". . . under the land management planning process, the Forest Service and the Department of Agriculture can and will again review the wilderness options as they develop new forest plans under the Resources Planning Act." Congressional Record S 15572, December 4, 1980.

"New forest plans" is a clear reference to the second generation of plans. An interim revision of the first generation of plans would not be called a "new" forest plan.

In light of this reading of the statute aided by legislative history, we believe CRS concluded too hastily that there is a clear "literal" meaning of the statute to the effect that any revision to a forest plan would toll the soft release moratorium on wilderness review. Of course, to clear up any uncertainty, the Committee could give explicit guidance in the Committee report if it deems further clarification to be necessary.

INADEQUATE CONSIDERATION OF RPA REGULATIONS

The CRS analysis gives the impression that revisions to forest plans would be a common occurrence. CRS fails to mention that the regulations contemplate three types of alterations in forest plans—amendments, significant amendments, and revisions. The first type of change is an amendment which can occur, for example, when there is a difference between proposed annual budgets and appropriated funds. [36 CFR 219.10(e)] The second kind of change is a significant amendment which is of such magnitude as to require in all likelihood the use of an environmental impact statement and compliance with the same procedures as required for development and approval of the forest plan itself. [36 CFR 219.10(f)] The third type of change is a revision which requires essentially that the entire plan be redone. [36 CFR 219.10(g)] As we have discussed, only scheduled revisions involve reconsideration of wilderness. (ibid.)

The point is that there are ways of making changes in a plan—even major changes—without doing a "revision" of the plan. Even if CRS is right that any revisions satisfy the soft release provisions, the regulations indicate that revisions are contemplated only when there are significant changes affecting the forest plan in the basic goals for the forest.

THE PROBLEM ADDRESSED BY CRS IS NOT A REAL PROBLEM

The "concern" addressed in the CFS analysis that revision of a forest plan will "force a reexamination of the wilderness potential of some areas as early as 1986" is, of course, hypothetical, since the plans are not yet final. The Forest Service is now expressing the view that the soft release language needs to be tightened. (See testimony of Lamar Beasley, Deputy Chief of the Forest Service on S. 1610, the Wisconsin bill, Senate Agriculture, Nutrition and Forestry Committee, November 16, 1983). His view is interesting in light of previous representations by the Chief of the Forest Service to the Senate that there were no loopholes in the soft release language, and the lanuage was causing no problem in states where it has been enacted. In a letter dated June 5, 1981 from Chief Peterson to Senator Malcolm Wallop, there appears the following question and response:

Question 6. While the California bill did not ultimately become law, this [sufficiency/release] language found its way into other laws—Colorado, Alaska, and New Mexico. Has there been any difficulty with management of nonwilderness lands in those States as a result of the compromise? Has someone found a loophole? Have there been complaints from individuals in those States that it does not work?

Response. The management of the nonwilderness in Colorado, Alaska, and New Mexico is proceeding in an orderly planned manner. We do not have any lawsuits in these States. We are not aware of any loopholes or major complaints in these States. . ." (see Hearings on RARE II Review Act of 1981, Senate Publication No. 97-60, p. 493)

THE CRS ANALYSIS DOES NOT ADDRESS THE REAL PROBLEM

There has always been a dispute about release language between conservationists and development interests. That dispute has never involved the question of whether

soft release will really last for one full generation of forest planning. Instead the dispute has been over how many generations of forest plans should be covered in the release provision.

The Colorado Act releases nonwilderness lands for the initial forest planning cycle (until the 1990's). Hard release would release the lands permanently, and the Wyoming bill releases the lands "for purposes of all current and future land management plans which are approved before December 31, 2000." The year 2000 in the Wyoming bill is an arbitrary date in that it is unrelated to the forest planning cycle. The effect of this provision may well be to put off consideration of the wilderness option not just for the seventeen year period between now and 2000, but for up to thirty years. The reason is a change in the regulations governing forest planning process. Regulations under the National Forest Management Act used to require that forest plans be revised "at least every ten years" [36 CFR 219.10(g)]. The new regulation changes this provision to read: "A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years." [36 CFR 219.10 (g)].

The first planning cycle is scheduled to be completed (depending on the particular forest) in 1984 or 1985. On a fifteen year schedule, the next plans will be approved in the late 1990's, just before the bill's year 2000 deadline. These plans will govern management of the forests for another fifteen years, or until 2012-15. In our view, the need has not been demonstrated for delaying reconsideration of the wilderness option for so long a period of time, especially since doing so would involve unraveling a resolution of the issue which all interested parties have accepted. For wilderness, thirty years is a very long time; the National Wilderness Preservation System itself has existed for less than twenty years (since passage of the Wilderness Act in 1964.) How much roadless land will be left after thirty years?

Hard release provisions, insofar as they eliminate the wilderness option from the forest planning process, do damage to the Acts governing management of the national forests, in particular the NFMA and Resources Planning Act. The degree of damage varies, with permanent release being more objectionable. The end result of the permanent release formula would be to relegate wilderness to a second class, rather than equal status in a newly established priority of uses of the national forest lands in contravention of all previous Congressional mandates.

CONCLUSION

The real dispute about release is whether lands should be released for one generation of forest plans, two generations, or all future forest plans. We are skeptical about the criticism of soft release that it won't accomplish its stated objective—which we support—of releasing lands for the first generation of plans. We believe this is just an attempt to get the nose of the camel into the tent; in other words, it is a tactic to reopen the whole release debate. None of the proponents of permanent release or Wyoming release have indicated that they will be satisfied with a tightening of the soft release language. We believe that clarifying Committee report language can solve the problem—if there is one. That option we will be glad to consider.

We appreciate the opportunity to express our views on this important subject.

APPENDIX

The Colorado Wilderness Act of 1980 contains the following "soft" release language:

SEC. 5(a). The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in the state of Colorado and of the Environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Colorado, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Colorado;

(2) with respect to National Forest System lands in the State of Colorado which were reviewed by the Department of Agriculture remaining in further planning upon enactment of this Act, areas listed in Section 4 of this Act, or previously congressionally designated wilderness study areas, that review and evaluation shall be deemed for the purposes of the initial land management

plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle:

(3) areas reviewed in such Final Environmental Statement and not designated as wilderness or for study by this Act or remaining in further planning upon enactment of this Act need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Wyoming Wilderness Act of 1983, H.R. 1568, S.543, contains the following release language:

Section 102 (b) The purposes of this Act are to:

* * * * * * *

(4) insure that certain national forest system lands in the State of Wyoming be made available for uses other than wilderness in accordance with applicable national forest laws and planning procedures and section 302 of the Act.

The lands referred to in paragraph (4) may be managed for a wide variety of uses, depending on their unique characteristics, including but not limited to fish and wildlife protection and management, developed and undeveloped recreation, scenic enjoyment, preservation of natural characteristics, range management, timber harvesting, watershed and vegetation management, energy and minerals exploration and development, and other uses.

Section 302. (b) National forest system lands in the State of Wyoming (1) not identified by section 201 as additions to the National Wilderness Preservation System, or (2) not heretofore designated by Act of Congress as components of the National Wilderness Preservation System, shall be managed for multiple uses other than wilderness, until and unless otherwise directed by an Act of Congress. Such lands shall be deemed, for purposes of all current and future land management plans which are approved before December 31, 2000, and which are required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to have been given adequate consideration as to their suitability for inclusion in the National Wilderness Preservation System.

(c) Unless expressly authorized by Congress, the Secretary of Agriculture shall not conduct, pursuant to the Wilderness Act, any roadless area review and evaluation of national forest system lands in the State of Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

The Huckaby bill, H.R. 4047, contained the following "hard" or permanent release language:

SEC. 5. The Congress determines and directs that—

(a) national forest system lands (1) not identified by section 3 as lands recommended for wilderness or (2) not identified by section 3 as lands requiring further planning, including certain lands heretofore in primitive areas and wilderness study areas, and (3) not heretofore specifically designated by Act of Congress as wilderness, shall, notwithstanding any other provision of law including section 708 of the Alaska National Interest Lands Conservation Act (94 Stat. 2371, 2421), section 104 of the Act of December 19, 1980, (94 Stat. 3265, 3270), and Section 107 of the Act of December 22, 1980 (94 Stat. 3265, 3270) be managed for multiple uses other than wilderness, unless Congress otherwise directs, and shall be deemed, for purposes of all present and future land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to have been given adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System;

(b) lands recommended for wilderness identified by section 3 and not placed into the National Wilderness Preservation System by Act of Congress before January 1, 1985, shall after that date no longer be considered as recommended for wilderness and shall be managed for multiple uses other than wilderness in accordance with the provisions of Subsection (a) of this section; and

(c) any lands requiring further planning identified by section 3 (1) not hereafter recommended before September 30, 1985, by the Secretary of Agriculture for wilderness shall, beginning on the date of determination not to recommend any such lands, or portion thereof, for wilderness, be managed for multiple uses other than wilderness in accordance with the provisions of subsection (a) of this section, or (2) recommended before September 30, 1985, by the Secretary for wilderness but not placed into the Wilderness Preservation System by Act of Congress before January 1, 1988, shall after that date no longer be considered as requiring further planning or as recommended for wilderness and shall be managed for multiple uses other than wilderness in accordance with the provisions of subsection (a) of this section.

* * * * * * *

SECTION 7. The Secretary of Agriculture shall not review any National Forest System lands for inclusion in the National Wilderness Preservation System unless expressly authorized by joint resolution of Congress adopted after the effective date of this Act; and no such lands shall be managed for protecting their suitability for possible wilderness designation unless authorized to be reviewed pursuant to this section.

STATEMENT OF R. MICHAEL LEONARD, VULCAN TRAIL ASSOCIATION, BIRMINGHAM, ALA.

The Vulcan Trail Association of Birmingham, Alabama is pleased to have this opportunity to comment on H.R. 3960, the North Carolina Wilderness Bill. We would have preferred to have sent a representative to Washington to testify on our behalf, but our means did not permit it. Therefore, we are sending these written comments.

I. THE VULCAN TRAIL ASSOCIATION AND ITS INTEREST IN THE NORTH CAROLINA WILDERNESS BILL

The Vulcan Trail Association (the "VTA") is based in Birmingham, Alabama and named for that city's symbol, a giant iron statue of Vulcan, Roman god of the forge, which overlooks downtown Birmingham. The VTA sponsors backpacking trips in Alabama and other southeastern states and is active in trail maintenance and construction in Alabama's national forests and state parks.

Though the VTA does most of its hiking in Alabama, North Carolina is probably our next most visited state. We have regular trips to the Joyce Kilmer-Slickrock Wilderness, and in the past few years either the club or its members have hiked in the Snowbird Creek Area, the Shining Rock Wilderness, the Linville Gorge Wilderness and the area around Standing Indian Mountain in the proposed Southern Nantahalas Wilderness.

However, beyond being interested in the areas we have visited in the North Carolina Mountains, the VTA is also committed to the preservation of the few wilderness areas that remain in the Southeast and in general to the protection of as much of the dwindling natural environment as is feasible to protect. Therefore, we also support the protection of all the areas covered by the North Carolina Wilderness Bill.

Through our comments we hope to point out that the fate of the wilderness areas in North Carolina is a question of regional and even national importance. Areas like Joyce Kilmer-Slickrock, Snowbird Creek and the Southern Nantahalas are as close to Birmingham as they are to Durham and Raleigh, North Carolina. For example, Joyce Kilmer-Slickrock is 280 miles from Birmingham and 350 miles from Raleigh. Similarly, the Southern Nantahalas Area is 270 miles from Birmingham and 330 miles from Raleigh. These areas are even closer to such major metropolitan areas as Atlanta, Knoxville and Chatanooga than they are to either Birmingham or many parts of North Carolina. Therefore, the protection of these wilderness areas in North Carolina will fill a major role of Eastern Wilderness by providing a wilderness resource and escape for many thousands of persons in such adjacent or nearby states as Tennessee, Georgia and the VTA's own home state, Alabama.

Finally, the VTA feels that even though these lands are in North Carolina, the fact remains that they are federally owned lands. Thus, they are a wilderness resource which belongs to every United States citizen, and the VTA feels that even though we are not a North Carolina based group and even though our members are not residents of North Carolina, we have a right to comment on the North Carolina Wilderness Bill and to urge the protection of these beautiful areas.

II. COMMENTS ON PARTICULAR AREAS

A. The Mountains

(i) Wilderness Areas Proposed in H.R. 3960.

As pointed out above, the VTA and its members are most familiar with the areas in the North Carolina mountains that are covered by H.R. 3960.

The VTA enthusiastically supports the creation of the Southern Nantahalas Wilderness Area. The high peaks of the Southern Nantahalas, including 5,500 foot Standing Indian Mountain, are truly awe-inspiring as they sweep in a great arc around the headwaters of the Nantahala River. A hike along this arc on the Appalachian Trail is one of the finest outdoor experiences that the Southeast has to offer. Further, the wilderness will insure that the pristine head waters of the Nantahala River remains that way for years to come.

The VTA also supports the expansion of the beautiful Joyce Kilmer-Slickrock Wilderness. The original wilderness is one of the VTA's most popular hiking areas, and we feel that the proposed addition of such areas as the Haoe Lead and the headwaters of Deep Creek would help round out protection of Joyce Kilmer-Slickrock and preserve the feeling of wilderness that one can now get by standing atop Haoe or Hangover and gazing out across the surrounding valleys and mountains.

Similarly, the VTA supports the expansion of the Ellicott's Rock Wilderness Area along the upper reaches of the Chattooga River and its tributaries. As the beautiful area around Highlands and Cashiers sees more and more development, the Ellicott's Rock Wilderness will become more and more important as a retreat and place of interest for the thousands who vacation in the area. Therefore, the VTA strongly supports its expansion.

In the Pisgah District of the Pisgah National Forest, the VTA strongly supports the expansion of the Shining Rock Wilderness. One of the original 1964 wilderness areas, Shining Rock is an extremely popular area which needs expansion in order to fill in gaps that were left in the original wilderness and preserve both the manificent valleys of such streams as the East Fork of the Pigeon River and such outstanding 6,000 foot peaks as Sam Knob, Tennent Mountain and Black Balsam which lie adjacent to the existing wilderness. Similarly, we support the creation of the Middle Prong Wilderness in the mountains to the west of Shining Rock and North Carolina Highway 215.

In the Grandfather District of the Pisgah National Forest, it is proposed that the Linville Gorge Wilderness be expanded to take in the lower end of the Gorge and such impressive areas as Short-Off Mountain. The VTA is enthusiastic in its support of this proposal.

Linville Gorge is one of the three original wilderness areas in the east with North Carolina's Shining Rock and the Great Gulf in the White Mountains of New Hampshire being the other two. Since 1964, the lower end of Linville Gorge and Short-Off Mountain have needed the same protection as the rest of the Gorge. The VTA strongly urges the United States Congress to give that protection by passing H.R. 3960.

(ii) Wilderness Study Areas Proposed in H.R. 3960.

Finally, the VTA fully supports the proposal to establish five congressional Wilderness Study Areas in the mountains of North Carolina. All five of these areas well deserve further consideration and the VTA hopes that most, if not all five, of these areas will eventually be protected as wilderness. The Snowbird Creek area is a beautiful and remote valley that the VTA and its members have enjoyed in the past. The Overflow Creek area is another wilderness valley which well deserves protection.

Farther north, the Craggy Mountains are some of the highest and most magnificent mountains in the East. The Forest Service has long recognized the unique nature of the area by establishing and managing part of the Craggies as a Scenic Area and in 1975, Congress designated 1,100 acres in the area as a Wilderness Study Area. Therefore, the VTA feels that the Craggy Mountain Area should be designated as a Wilderness Study Area by the passage of H.R. 3960.

In the Grandfather Ranger District, H.R. 3960 provides for the establishment of Wilderness Study Areas at Harper Creek and Lost Cove. Both of these areas contain wild and remote coves and valleys at the foot of famous Grandfather Mountain. Harper Creek contains several outstanding waterfalls such as Harper Falls and Bard Falls and Lost Cove is flanked to the south by the great precipices of Big Lost Cove Cliffs.

B. The Piedmont

The Uwharrie Mountains in the Piedmont of North Carolina are one of North Carolina's more unique, yet relatively unknown features. The mountains are a series of ancient Monadnocks, the last remains of a giant mountain system that predates even the Appalachians. They also lie within an hour and a half drive of all the cities along the highly developed "Piedmont Crescent" which stretches from Raleigh through Greensboro to Charlotte. The Birkhead Mountain wilderness area would protect a portion of the unique Uwharrie area for future generations and would provide a wilderness within a short distance of the majority of North Carolina's population. Further, the Birkhead Mountain area is traversed by a section of the popular Uwharrie Trail, the longest trail in central North Carolina. Therefore, the VTA fully supports the establishment of the Birkhead Mountain Wilderness.

C. The Coast

H.R. 3960 would establish four wilderness areas in the Croatan National Forest, and these areas would do much to protect prime examples of the unique ecological systems that are connected with the shallow natural lakes and fascinating pocosins of eastern North Carolina. For example, these areas contain such rare and unique flora and fauna as a virgin stand of pond pine, the venus fly trap, Atlantic white cedar and the American alligator. Therefore, because one of the purposes of the VTA is to promote the protection of natural ecosystems, the VTA supports the proposal in H.R. 3960 to protect Sheep Ridge, Catfish Lake, Pond Pine and Pocosin as wilderness areas in the Croatan National Forest.

CONCLUSION

The VTA enthusiastically supports H.R. 3960 as introduced by the honorable James M. Clarke of North Carolina's 11th Congressional District and as co-sponsored by all ten of the other Congressmen from that state. The VTA feels that H.R. 3960 would do much to finally settle the wilderness question in North Carolina's National Forests and, even more importantly, that H.R. 3960 would help insure that all the areas involved in the bill will be preserved both for future generations and for their own intrinsic value as wild and natural ecosystems.

We appreciate the opportunity to express our views on H.R. 3960.

GRAHAM COUNTY BOARD OF COUNTY COMMISSIONERS,
Robbinsville, N.C., January 23, 1984.

UNITED STATES SENATE,
Committee on Agriculture, Nutrition, and Forestry, Washington, D.C.

GENTLEMEN: I am writing you concerning the North Carolina Wilderness Act of 1983 (H.R. 3960), which designates additional Graham County property to wilderness so that it may never be used by the people of our county in any way that could be considered beneficial to them.

Certainly, we are pleased to see 114,000 acres of forest property once again freed to the use of the people of North Carolina. Property that provided timber for our fathers and forefathers, timber that can continue to provide a livelihood for this generation and generations to come.

More than 60 percent of Graham County is now owned by the United States Forest Service. More than 10,000 acres of this property, in the Joyce Kilmer Memorial Forest and Slickrock area are already designated as Wilderness. Our people feel that Joyce Kilmer Memorial Forest is more than a fair contribution by our comparitively small county. The Slickrock area abounds with prime timber at it's peak of usefulness, much needed by our people if we are to maintain and improve our standard of living, our Mountain Heritage.

H.R. 3960 provides more than 2,980 additional acres to Graham County to wilderness, thereby making it inaccessible to our people for all practical purposes. In addition, this Bill provides for 5,490 acres of Graham County property now accessible, to be designated as "Snowbird Wilderness Study Area," thus becoming inaccessible. All properties to be released for our use under H.R. 3960, were accessible in their entirety before the original RARE II controversy, strongly opposed by all native Graham County residents.

Graham County maintains one of the highest rates of unemployment in this state and it is no secret that the majority of our people depend either directly or indirectly on the lumber industry for their livelihoods. Surely, there are larger neighboring counties less dependent on the lumber industry that could more easily provide the acreage to be designated Wilderness.

Please examine your position on the North Carolina Wilderness Act of 1983 and it's potential harm of Graham County. Your careful consideration of this matter would be greatly appreciated.

Respectfully,

ROY BROOMS, *Vice Chairman.*

STATEMENT OF WILLIAM A. BANKS, PRESIDENT, BANCO LUMBER, INC., BURNSVILLE, N.C.

I sincerely appreciate the invitation extended to me in Senator Helms letter of January 17, 1984 to testify personally before this committee. I am deeply distressed that circumstances beyond my control prevented me from appearing in person and I would ask respectfully that this statement be placed on the record in lieu of my presence.

Over the past 30 years I have made my living in the hardwood timber business. I have many times been troubled deeply by the fact that avid proponents of Wilderness concepts view it as a business of devastation and destruction. In reality it is a business which each year becomes more scientifically involved in the proper havesting, seeding, planting, and planning to harvest again useable products from forest lands. It is a business which believes in using the land without abusing it; in having the land serve more than on designated purpose.

I can readily sympathize with those who take this view, however; because I dearly love the land myself. I enjoy hunting and fishing and simply walking in the quiet stillness of the forest. Nothing is more scintillating to me than the beauty which abounds in the blazing color of fall foilage. I have never felt closer to God than when standing on a mountain top. But I do not have to be buried in an uncharted area many many miles from any type of civilization to evidence this experience.

I am saying that those who passionately expound on the merits of Wilderness and those who speak strongly against it are but a twinkling of an eye apart in their views. The difference is where they want Wilderness, how much Wilderness they want and whether each is willing to condescend and listen to the other.

H.R. 3960 proposes to bring about such a meeting of the minds as I have described above. It has been expounded upon as being a bill which would "please everyone". And perhaps it will do just that! I am fearful, however; that if it accomplishes the purpose of creating Eutopia in the Wilderness issue; much stronger and more definite language will be necessary to make sure that its' purpose is fulfilled.

For instance: The bill on pages 6 & 7 sets forth the fact that RARE II designated certain lands for inclusion in the Wilderness system, certain lands for further study and certain lands to be designated for non-wilderness purposes. It goes ahead to say that "unless expressly authorized by Congress the Department of Agriculture shall not conduct any further state wide roadless area review and evaluation of National Forest System lands in the state of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System". What happens if someone decides to review the situation in only a certain area of the state rather than state wide? Is this legal? Will someone attempt to find out? No-one knows!

Although RARE II doubtless was a thorough and exhaustive study—and perhaps a most productive one; it has been completed. I think it is time to put it to rest. We have tested, figured, theorized, planned and set aside tremendous quantities of land within our country for all uses. Many, many acres for Wilderness, many, many acres for Multiple Use, which was of course the initial purpose in the founding of the U.S. Forest Service. We do not need to leave ourselves open to go through this exhaustive process again.

Therefore urge this committee to introduce language sufficient to assure that Wilderness land will be designated as Wilderness and used for that purpose. I urge it to introduce language to take other lands which have been set aside as non-wilderness and restore them to their useful and righful purpose so that the business and progress of this nation can continue on its way. The committee in that manner will promote the original theory of Multiple Use within its forest lands. The committee in that manner will make this country a better place in which to live.

STATEMENT OF DAVID N. STARTZELL, ASSOCIATE DIRECTOR, APPALACHIAN TRAIL CONFERENCE, HARPERS FERRY, W. VA.

I am submitting testimony on behalf of the Appalachian Trail Conference in regard to your hearings concerning H.R. 3960, or the designation of certain lands in North Carolina as additions to the National Wilderness Preservation System.

As you know the Appalachian Trail Conference is a private, nonprofit, educational organization composed of approximately 18,000 members as well as over 60 hiking and outing clubs representing an estimated 60,000 individuals. For 57 years the Conference has coordinated private efforts to develop, maintain and preserve the Appalachian Trail.

The Appalachian Trail, one of our nation's first national scenic trails, is a continuous, marked footpath which traverses the Appalachian Mountain chain from Maine to Georgia for a distance of over 2,100 miles. Along its route the Trail crosses eight national forests, six units of the national park system, and more than 60 public land areas in 14 states.

Since the early 1920's, when the concept of an Appalachian Trail was first envisioned, the Trail has been viewed as a means for the people of the populated eastern United States to gain access to the vast array of wild and scenic areas along its route. Moreover, the Appalachian Trail Conference has consistently sought to preserve the many remote and primeval areas, as well as the great diversity of landscapes, throughout the range of the Trail.

Given this background, it is not suprising that we have generally supported the concept of eastern wilderness designation. Indeed, we believe that the preservation of eastern wilderness areas in the vicinity of the Appalachian Trail can significantly enhance the recreational experience of Trail users. We also believe that the Trail and related facilities represents a compatible and complementary use within such areas.

With respect to H.R. 3960, approximately 23 miles of the Appalachian Trail extend through the proposed Southern Nantahala Wilderness from the North Carolina/Georgia line (Bly Gap) to Mooney Gap. In addition, two Trail shelters or lean-tos are located within this area—Carter Gap lean-to and Standing Indian lean-to. This section is highly scenic and worthy of wilderness designation, and the Appalachian Trail Conference strongly endorses this designation within H.R. 3960.

We do, however, wish to express some reservations which we hope may be reflected in the bill, as formulated by the Committee, or in the Committee's report accompanying the bill. On occasion we have experienced some difficulties occasioned by managing federal agency interpretations of wilderness designation as it relates to Appalachian Trail management practices within such areas. These difficulties have tended to center around three basic issues, as follows:

Trail marking.—Standard footpath marking for the entire length of the Appalachian Trail is 2" x 6" white vertical rectangular paint blazes spaced at regular intervals. These markings guide hikers along the route and are particularly important in areas or weather conditions when the direction of the footpath is not obvious. In some instances, managing agencies in designated wilderness areas have removed blazes or reduced the frequency of blazing with the predictable result of Trail users becoming disoriented or lost.

Tread improvements.—A variety of man-made devices exist along the Trail such as log or rock waterbars for erosion control and simple bridges across streams. While these devices are generally constructed from local, natural materials and appear rustic, they have on occasion been interpreted as "intrusions" in a designated wilderness area by managing agencies.

Trail shelters.—A system of over 200 shelters, spaced at approximately one-day hiking intervals, has been a traditional management practice along the Appalachian Trail. Most shelters are open-faced lean-tos constructed of lumber, logs, or rocks with a user capacity of six to ten people. These facilities have not been provided merely as a convenience to Trail users. They are intended to provide shelter from inclement weather and to concentrate overnight use in limited, designated areas and thus reduce wide spread impacts to a resource area. Again, these structures have been viewed by some agencies as intrusions or non-conforming uses and have been allowed to deteriorate and been removed.

In expressing concern over these issues it is not our intent to unduly restrict prudent resource management decisions on the part of managing federal agencies. But we believe that in the majority of instances traditional management practices for the Appalachian Trail, including marking, tread improvements, and shelter facilities, have developed in response to legitimate concerns for the health and safety of Trail users and for the preservation of the natural resource base. In general these

practices have evolved through consultations between the managing agencies, the Appalachian Trail Conference, and our affiliated clubs who provide significant amounts of volunteer service in Trail maintenance and construction.

We believe these practices should continue in desingated wilderness areas as well as other federally manageed areas along the Appalachian Trail. We therefore respectfully request that the Committee recognize the Appalachian Trail within the proposed Southern Nantahala Wilderness area as an existing and compatible use and encourage the responsible agency to continue traditional management practices associated with this use, including consultation with the Appalachian Trail Conference and other interested organizations. We have taken the liberty of including language addressing the above issues which was incorporated by your colleagues in the House report accompanying H.R. 3960 (Report 98-532 Part I). We hope that this Committee will elect to provide similar direction to the managing agency either through appropriate report language or through bill language.

Thank you for your consideration of these issues. Should you or your staff require any additional information, please feel free to contact me.

As mentioned above, the Committee notes that many miles of the Appalachian Trail extend through the proposed wilderness. In designating the wilderness, the Committee believes that the trail and its related structures represent a desirable existing use which is deemed compatible with wilderness designations in the area. Specifically, the Committee would request the Secretary to continue traditional management practices for this use, including trail marking and footpath maintenance. Structure maintenance may also be permitted and desirable for the protection of the wilderness and health and safety of persons within the area. Management decisions in this regard should be developed in consultation and coordination with the Appalachian Trail Conference and other interested organizations and individuals.

[The following material was inserted at the request of Senator Jepsen.]

National Forest Wilderness Bill Release Alternatives: A Legal Analysis and Policy Issues

(Prepared by Pamela Baldwin, Legislative Attorney, American Law Division, and Ross W. Gorte, Analyst, Environment and Natural Resources Policy Division, Congressional Research Service, The Library of Congress)

EXECUTIVE SUMMARY

In 1979, the Forest Service completed a nationwide review of the suitability of National Forest System lands for inclusion in the National Wilderness Preservation System. This study, known as RARE II, also was to serve as the foundation for consideration of wilderness as a use under the forest management plans required by the Forest and Rangeland Renewable Resources Planning Act and the National Forest Management Act. When Federal courts for California held the Environmental Impact Statement on RARE II inadequate as to certain classifications of areas in that State, and the Forest Service indicated that it would repeat the entire study, Congress considered how to resolve the issues presented: the sufficiency of the RARE II EIS, the "release" of lands of nonwilderness uses, the timing of reevaluation of wilderness potential in the context of the development of forest management plans, the management of areas with wilderness attributes pending reevaluation, and the extent and timing of future RARE studies.

Several approaches have been proposed. Language known as "soft release" has been enacted in laws addressing wilderness issues in several States. Soft release may be summarized as language that generally continues the Forest Service management flexibility of existing relevant statutes, but envisions future wilderness area revews occurring basically in the second generation of forest management plans, which is expected to begin in 1993. Future statewide RAREs would be conducted only as requested by Congress. In the meantime, areas with wilderness attributes need not be managed to preserve those attributes.

In contrast, "hard release" language permanently releases lands with wilderness attributes from management specifically to preserve those characteristics, mandates nonwilderness use, and precludes any future wilderness reviews unless authorized by Congress. Language in a bill on wilderness areas in Wyoming, although ambiguous in several crucial respects, appears to articulate an intermediate position under

which areas with wilderness attrubutes will not be reviewed for wilderness purposes until the generation of plans revised after the year 2000, which because of the revision cycles, may postpone such reviews until 2010 or later. The bill may or may not preclude future reviews entirely, and quite arguably mandates nonwilderness management in the interim.

Proponents and opponents of each alternative assert policy arguments in defense of their position. This report will described in detail the background of these issues, analyze the legal import of the various versions, and set out the policy arguments that have been put forth to justify each.

BACKGROUND

The Wilderness Act [1] established the National Wilderness Preservation System in 1964 with an initial endowment of 9.1 million acres of national forest lands. Congress reserved the sole authority to add to the system, but directed the Secretary of Agriculture to review the 5.5 million acres of primitive areas managed by the Forest Service and recommend areas for wilderness designation. Areas are designated as wilderness because of their beauty and their pristine nature. Additions to the National Wilderness Preservation System often stir controversy because most resource development, particularly timber harvesting, is statutorily prohibited in wilderness areas.

The Forest Service administratively expanded the scope of the primitive area review and began the Roadless Area Review and Evaluation (RARE) in June 1970. Approximately 12.4 million acres in 274 areas were identified for the study by the Forest Service. However, this study evoked substantial criticism because it excluded eastern national forests, national grasslands, and all roadless areas of less than 5,000 acres. RARE was abandoned in 1972 before any recommendations were made because of a lawsuit claiming 44 million acres were improperly excluded from the study.

The Forest Service began a second national wilderness study, RARE II, in June 1977. This examination was broader in scope than the first effort, including over 62 million acres in 2,919 areas. The recommendations were issued on January 4, 1979. One quarter of the area reviewed (15.1 million acres) was recommended for addition to the wilderness system. Another 10.8 million acres were to be studied further in the Forest Service land use planning process. The remaining 36.2 million acres were recommended to be managed for multiple uses other than wilderness, which can include logging, grazing, recreational development, wildlife habitat, motorized recreation, and energy and mineral development. On April 16, 1979, President Carter presented the Congress with the Forest Service recommendations virtually unchanged, shifting less than 1 million acres among the recommended categories.

RARE II was a separate acceleration of part of the comprehensive planning process mandated for the national forests by the Forest and Rangelands Renewable Resources Planning Act of 1974 (RPA) [2] as amended by the National Forest Management Act of 1976 (NFMA).[3] Therefore, it differed from the original RARE study, which was conducted without congressional direction for comprehensive Forest Service planning. RARE II was also done within the requirements of the National Environmental Policy Act of 1969 (NEPA) [4] because NFMA requires that all forest plans be conducted in accordance with NEPA requires a published assessment of the environmental impacts of significant Federal actions and requires that public concerns be addressed. This, public response was a significant factor in shaping the RARE II recommendations.

In July 1979, the State of California sued the Secretary of Agriculture because the State was dissatisfied with the RARE II recommendtions for California. On January 8, 1980, a U.S. district court judge ruled that the RARE II Final Environmental Statement, with respect to the 46 areas identified in the suit, did not contain sufficient site-specific data on wilderness values and did not consider an adequate range of alternatives to meet the requirements of NEPA. The court enjoined development in the disputed areas until they could be restudied. On October 22, 1982, the lower court ruling was basically upheld by the 9th Circuit Court of Appeals.

Although the litigation applies only to California, the forest industry feared that similar injunctions might result elsewhere, or that the court's reasoning would require the Forest Service to conduct another costly, detailed, and time-consuming

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[1] Act of September 3, 1964, Pub. L. 88-577, 78 Stat. 890.
[2] Act of August 17, 1974, Pub. L. 93-378, 88 Stat. 477.
[3] Act of October 22, 1976, Pub. L. 94-588, 90 Stat. 2949.
[4] Act of January 1, 1970, Pub. L. 91-190, 83 Stat. 852.

wilderness evaluation of all national forests. This appeared probable when the Forest Service indicated that it would revaluate all roadless areas as part of the initial forest planning. Initial attempts to avoid both further litigation and additional wilderness studies focused on a nationwide RARE II bill with nationwide release language. Bills were introduced in both Houses of Congress in the 96th and 97th Congresses, but no final action was taken on any nationwide wilderness bill.

Instead, since the completion of RARE II, Congress has generally taken up national forest wilderness designations by individual States. Soft release language was developed during negotiations among various interest groups during the consideration of H.R. 7702 in the 96th Congress, a bill to designate wilderness areas in California that passed the House, but not the Senate. Environmental groups recognized the industry's concerns because of the California lawsuit, and agreed that the Forest Service should not be required to restudy wilderness potential in the initial forest plans that were then being started. Soft release language has enacted in wilderness legislation for six States: Alaska, Colorado, Indiana, Missouri, New Mexico, and West Virginia. However, other versions of release language have been introduced. Each version differs in certain significant respects and appears likely to produce different effects. These differences will be discussed in the analysis that follows.

LEGAL ANALYSIS OF WILDERNESS RELEASE ALTERNATIVES

Soon after the completion of RARE II, litigation raised issues that Congress has sought to address in subsequent wilderness designation legislation. The State of California sued the Secretary of Agriculture challenging the legal and factual sufficiency of the RARE II Environmental Impact Statement as to its consideration of the suitability of National Forest lands in California for inclusion in the National Wilderness Preservation System. *California* v. *Bergland*[5] held that the EIS was not sufficient with respect to certain areas, and the court enjoined development that would change the wilderness character of those areas pending restudy.

Although the litigation applied only to California, the reasoning of the decision produced uncertainty as to the sufficiency of the EIS for wilderness areas in other states, and as to the management of all areas subject to the RARE II study.

The EIS issues are critical because under the Forest and Rangeland Renewable Resources Planning Act of 1974 (RPA) as amended by the National Forest Management Act of 1976 (NFMA) the Forest Service is to develop land management plans for national forest system units that "provide for multiple use and sustained yield of the products and services obtained therefrom in accordance with the Multiple Use-Sustained Yield Act of 1960 [16 U.S.C. 528–531], and, in particular, include coordination of outdoor recreation, range, timber, watershed, wildlife and fish, and wilderness, . . . "[6] The Multiple-Use Sustained Yield Act itself also recognizes wilderness as a legitimate use of the forest system resources.[7] This point is very important to keep in mind in analyzing release language.

The Secretary is to "attempt" to complete the initial land management plans by September 30, 1985. The plans are to be "amended" in accordance with certain procedures, and "revised" from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years. . . ." [8]

Although existing land and resource plans continue in effect until replaced by NFMA directed plans,[9] because of the uncertainties surrounding the RARE II EIS and its classifications of areas as to wilderness suitability, the Forest Service claims it is hampered in planning effectively for the wilderness/nonwildnerness management of many areas.

The problem of coordinating wilderness use in the forest management plans became even more acute when the Department indicated that RARE II might be completely redone as to all areas studied undrer RARE II, not just those addressed by the court in the California decision.

Subsequent wilderness legislation addresses these issues, which may be summarized as: 1) the timing of reevaluation of roadless areas not designated as wilderness

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[5] 483 F. Supp. 465 (E. D. Cal. 1980), modified, 690 F.2d 753 (9th Cir. 1982) sub. nom. *California* v. *Block*.

[6] *Ibid.*, section 6.

[7] Act of June 12, 1960, Pub. L. 86-517, 74 Stat. 215. Section two of the Act authorizes and directs the Secretary of Agriculture to develop and administer the renewable surface resources of the national forests for multiple use and sustained yield and specifically states: "The establishment and maintenance of areas of wilderness are consistent with the purposes and provisions of this Act." See 16 U.S.C. 529.

[8] NFMA, section 6(f)(4) and (5) respectively, 16 U.S.C. 1604(f)(4) and (5).

[9] 16 U.S.C. 1604(c).

following the RARE II EIS; 2) management of wilderness lands until reevaluation; and 3) further RARE studies. Several versions of languge were developed that "release" lands from further study for possible wilderness designation, and further clarify whether roadless lands must be managed to preserve wilderness qualities pending reevaluation.

This report will analyze three versions of the statutory language in an effort to derive, as would a court, its "plain meaning," and to apply the literal or usual meaning of its words to accomplish the purpose of the statute.[10] Because some courts have expresed a reluctance to examine legislative history if a plain statutory meaning can be ascertained,[11] committee report language is included only secondarily and points at which it may be said to diverge from the statutory language are noted. The current regulations implementing already enacted language also are noted since they both affect how current law is being applied in practice, and are entitled to deference as the position of the agency charged with putting the statutory language into effect.[12] The primary emphasis of the report, however, will be on the existing and proposed statutory language and the interpretations that might be drawn from it.

Soft release

The Act of December 22, 1980, Pub. L. 96-560, 94 Stat. 3265 on wilderness in Colorado and certain other states contains what has been characterized as "soft" release language. Section 107 of that Act states:

SEC. 107. (a) The Congress finds that—

"(1) The Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

"(2) the Congress has made its own review and examination of National Forest System roadless areas in the State of Colorado and of the environmental impacts associated with alternative allocations of such areas.

"(b) On the basis of such review, the Congress hereby determines and directs that—

"(1) without passing on the question of the legal and factual sufficiency of the RARE II Final Environmental Statement (dated January 1979) with respect to National Forest System lands in States other than Colorado, *such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Colorado.*

"(2) with respect to the National Forest System *lands* in the State of Colorado which were *reviewed* by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), *except those lands remaining in further planning* upon enactment of this Act, areas listed in sections 105 and 106 of this Act, *or* previously congressionally *designated* wilderness study areas, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to *be an adequate consideration* of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture *shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;*

"(3) *areas* in the State of Colorado reviewed in such Final Environmental Statement and *not designated as wilderness or* for study by Congress *or remaining in further planning* upon enactment of this Act *need not be managed for the purpose of protecting their suitability for wilderness* designation pending revision of the initial plans; and

"(4) unless expressly authorized by Congress the Department of Agriculture *shall not conduct any further statewide* Roadless Area Review and Evaluation of National Forest System lands in the State of Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System." (Emphasis added.)

Several features of this language should be noted.

Subsection (b)(1) states that the RARE II environmental impact statement on the wilderness potential of the lands in Colorado is not subject to judicial review as to National Forest System lands in Colorado.

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[10] *Tennessee Valley Authority* v. *Hill*, 437 U.S. 153 (1978).

[11] See e.g. *National Small Shipments* v. *Civil Aeronautics Board*, 618 F.2d 819 (D.C. Cir. 1980).

[12] *Alabama Power Company* v. *Costle*, 636 F.2d 323 (D.C. Cir. 1979).

Subsection (b)(2) states that the RARE II wilderness study was an adequate consideration of the suitability for inclusion in the wilderness system of the studied National Forest System lands in Colorado, except for those designated as wilderness units, wilderness study areas, or those remaining in further planning upon enactment, and the Department of Agriculture is not required to review the wilderness option prior to the revision of the initial management plans for those areas, and in no case prior to September 30, 1985, the date set for the completion of the initial planning cycle. Therefore, the wilderness option is to be reviewed for purposes of the plans for areas classified as "further planning". As to other areas, the language is permissive, and considering only the statutory language it could be argued that the Forest Service after 1985 could review the wilderness option before a revision of an initial management plan, but could not be challenged for failure to do so until an initial management plan was "revised." It could be argued that this language does not modify the RPA and NFMA, but rather reflects Congress' determination that the RARE II wilderness review was sufficient compliance with those laws for purposes of the intial plans.

The point at which a plan could be said to have been revised is debatable. As noted earlier, the NFMA amended RPA to include both "amended" and "revised" when speaking of changes to plans. Section 6(f) of RPA now reads:

Plans developed in accordance with this section shall—

* * * * * * *

"(4) be amended in any manner whatsoever after final adoption after public notice, and, if such amendment would result in a significant change in such plan, in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section; and

"(5) be revised (A) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (B) in accordance with the provisions of subsections (e) and (f) of this section and public involvement comparable to that required by subsection (d) of this section."

This language indicates a gradation of possible changes to management plans: minor amendments for which public notice is given, significant amendments that must meet more comprehensive requirements as to preparation and public participation, and full-blown revisions of the plans which are to be done at regular intervals of at least fifteen years or sooner when the Secretary finds conditions in a unit have significantly changed. Undoubtedly, wilderness suitability would be a part of the overall reevaluation at the time of revision; whether wilderness suitability could be reevaluated as part of a significant amendment of a plan is an open question under the statutory language. The legislative history of NFMA does not clarify this point. The Conference report on NFMA indicates that the provisions of subsection (f) came from the House bill with some modifications to permit "minor changes to be made in unit plans after appropriate public notice but without invoking the formalities required for the original plan."[13] There was no further elaboration. The principal report on the House bill simply paraphrased the language of the bill without elaboration or examples.[14]

Therefore, when later wilderness bills refer to the Department not being required to review the wilderness option prior to the "revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle" (emphasis added), in view of the language in NMFA, the argument could be made that the Department may review the wilderness option before a revision, as a significant amendment to a plan. A second area of concern over the import of the soft release language is that circumstances may produce revisions of an area's plan well in advance of the normal planning revision cycle, thereby reducing stability of timber planning. The most frequently discussed example of such a circumstance is that of court ordered changes to a plan that was not in operation very long before being challenged. Whether such changes should be viewed as a correction of whatever generation plan the subject plan was, or as a revision of that plan is not clear from the statutory language of NFMA—might the Secretary indeed find that "con-

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[13] H.R. Rep. No. 1735, 94th Cong., 2d Sess. at 25.

[14] H.R. Rep. No. 1478, Part I, 94th Cong., 2d Sess. at 20, 32, discussing section 6 of H.R. 15069, which provided in items 6 and 7 that plans: (6) Be amended after final adoption only in accordance with the provisions of subsections (e) and (f) and after being open to public scrutiny and public involvement comparable to that required by subsection (d); and (7) Be revised (i) from time to time when the Secretary finds conditions in a unit have significantly changed, but at least every fifteen years, and (ii) in accordance with the provisions of subsections (e) and (f) and the public scrutiny and public involvement provisions of subsection (d).

ditions in a unit have "significantly changed" if a court determines the conditions are other than the Secretary had assumed?

Regardless of the ambiguities as to the application of these terms in NFMA, a court might well probe further for their intended, possibly narrowed meaning when used in later wilderness bills. Although subsequent committee interpretations of a statute may be given little weight in interpreting an earlier statute,[15] in this case the meaning of "revision" in NFMA, it is likely that a court would give weight to the relevant legislative history of the wilderness acts because the acts also use the same terms, place the management plans and revisions in a particular context, and clarify the intended meaning of those terms and provisions in new legislation addressing specific circumstances.

To this end, a court is likely to consult at least the committee reports for clarification as to the intended meaning of revision in this context. The House report on the Colorado bill[16] does not discuss the release language, because the House bill did not contain a release provision. The conference report indicates that the Senate provision was agreed to "with a technical amendment to insure that its application is limited to national forest land in Colorado. A thorough discussion of this matter can be found on pages 23–27 of Senate Report 96–914."[17] The cross referenced report in turn states that further study, beyond RARE II, of the wilderness option for purposes of initial management plans was duplicative and unnecessary for purposes of the development of the first generation of management plans. The committee report expressly endorsed section 219.12(e) of the regulations promulgated by the Forest Service to implement NMFA.[18] That section at that time stated that:

"Lands reviewed for Wilderness designation under the review and evaluation of roadless areas conducted by the Secretary of Agriculture but not designated as wilderness or designated for further planning and lands whose designation as primitive areas has been terminated *will be managed for uses other than wilderness* in accordance with this subpart. *No such area will be considered for designation as wilderness until a revision of the forest plan § 219.11(f). . . . (emphasis aded)*[19]

The Senate report goes on to state:

"Beyond the initial plans lies the issue of when the wilderness option for roadless areas should again be considered. As noted, the initial plans are to be completed by September 30, 1985. The National Forest Management Act provides that a plan shall be in effect for no longer than 15 years before it is revised. The Forest Service regulations, however, provide for revision at least every ten years.

"The bill, as reported, provides that the Department of Agriculture shall not be required to review the wilderness option until it revises the initial plans and in no case prior to the date established by law for completion of the initial planning cycle, September 30, 1985. By using the word 'revision,' the Committee intends to make it clear, consistent with Forest Service regulations, that merely amending a plan does not trigger the need for reconsideration of the wilderness option. The wilderness option need not be reconsidered until the entire plan is completely revised. For example, if a plan were amended to take into account the building of a new power line across a corner of a forest, the wilderness option would not have to be reexamined. Only when the entire plan is revised would the wilderness option have to be examined, and then only after September 30, 1985. . . .

"The Committee intends that the revision process should be considered to commence when the Forest Service publishes in the Federal Register its announcement of the beginning of the Draft Environmental Impact Statement process for the plan being developed. . . ."[20]

There are also statements in various other committee reports discussing soft release language to the effect that the final language was intended as a compromise that would give the timber industry a reasonable period of planning stability, but not postpone reconsideration of wilderness suitability so long that any future wilderness designations might be precluded in practice by development.[21]

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[15] See *Secretary of the Interior* v. *California*, 52 USLW 4063, n. 15 at 4068.

[16] H.R. Rep. No. 617, 96th Cong., 1st Sess. (1979).

[17] H.R. Rep. No. 1521, 96th Cong., 2d Sess. (1980), at 19.

[18] 44 Fed. Reg. 53928, September 17, 1979.

[19] *Ibid.*, at 53988.

[20] S. Rep. No. 914, 96th Cong., 2d Sess., at 25–26.

[21] See e.g., H.R. Rep. 1223, 96th Cong., 2d Sess. at 53, and H.R. Rep. 181, 97th Cong., 1st Sess. at 44 cross referenced in H.R. Rep. 561, 97th Cong., 1st Sess. on Act of January 13, 1983, Pub. L. 97–466, 96th Stat. 2538.

Therefore, a strong argument could be made that although the statutory language is permissive and appears to continue the flexibility provided the Forest Service under RPA and NFMA, Congress clearly contemplated and sanctioned the existing regulatory system under which the wilderness option would not again be considered until the second generation of plans and that the triggering threshold of what constituted a "revision" was quite high, usually being a complete, routine revision of the entire plan. It is, of course, difficult to predict how a court would resolve this issue, but based on the elaboration in the legislative history, judicially ordered changes to a plan are likely to be considered as corrections to a plan, rather than as a revision. It also would be unlikely that the wilderness option would be reconsidered administratively unless conditions on the land had so changed as to require an early revision.

On the subject of management of lands with wilderness potential that were not designated as wilderness, wilderness study, or further planning, the soft release language provides that these areas "need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans." Again, this is permissive language that establishes that the wilderness attributes of an area need not be preserved simply because the area will be considered for wilderness status in the future. The Senate Reports states:

"The fact that the wilderness option for roadless areas will be considered in the future during the planning process raises the hypothetical argument that the areas must be managed to preserve their wilderness attributes so these may be considered in the future. Such an interpretation would result in all roadless areas being kept in de facto wilderness for a succession of future planning processes. Such a situation would completely frustrate the orderly management of non-wilderness lands and the goals of the Forest and Rangeland Renewable Resources Planning Act.

"To eliminate any possible misunderstanding on this point, the bill provides that areas not designated as wilderness, wilderness study, or remaining in future planning need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use, nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of Section 6 plans is required only for those lands which may be suited for wilderness at the time of the initiation of such future planning. There is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness.

"For example, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course, manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third-generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation if the particular land in question still possess wilderness attributes. But there is no requirement that these attributes be preserved solely for the purpose of their future evaluation in the planning process.[22]

Again, this permissive language reflects provisions of RPA and NFMA that give the Forest Service flexibility to manage such lands as wilderness, depending on particular circumstances. Although the committee report earlier cross-referenced 36 CFR 219.2(e), it did not make a note of the fact that the regulations in effect then (and now) provide that such areas will be managed for the nonwilderness uses. It appears that the soft release language does not modify the NFMA, RPA or the Multiple Use Act as to wilderness resource management, but the regulation may be inconsistent with these existing laws. This regulatory directive is currently at 36 CFR 219.17.

As to further roadless area studies, the soft release language mandates that the Department of Agriculture not conduct any further statewide studies to determine the suitability of roadless lands for inclusion in the wilderness system unless expressly authorized by Congress. Again, there is some flexibility in the statutory language since it does not preclude study of a particular area if the Forest Service deems that to be desirable. This flexibility is acknowledged in the report language which also expresses the intent that it will be used sparingly in light of the overall intent that the studies to date be sufficient for most circumstances:

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[22] S. Rep. No. 914, *supra*, at 26-27.

"The final issue addressed by the Committee in Section 5 of H.R. 5487 pertains to the possibility of future administrative reviews similar to RARE I and RARE II. With the National Forest Management Act planning process now in place, the Committee wishes to see the development of any future wilderness recommendations by the Forest Service take place only through that planning process, unless Congress expressly asks for other additional evaluations. Therefore, the legislation directs the Department of Agriculture not to conduct any further statewide roadless area review and evaluation of national forest system lands in Colorado for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

"The Committee recognizes that this directive might technically be evaded by conducting such a study on some basis slightly smaller than statewide. The Committee is confident, however, that the Department recognizes the spirit as well as the letter of this language and that the Committee can expect there will be no "RARE III." [23]

Hard release

In contrast to the language analyzed above, other bills have approached the issues differently. "Hard release" language has appeared in two versions. One version was S. 842, 97th Cong., 1st Sess., a bill proposing a general solution to the wilderness problems. As to western lands, S. 842 provided that the RARE II review was an adequate consideration of wilderness suitability of all lands not remaining in the further planning category at the time of enactment, and lands not designated as wilderness by certain dates "for the purposes of all land management plans required" by RPA and NFMA. (emphasis added). Note that although this language removes any basis for challenging plans that do not reflect additional review of wilderness suitability, it does not prohibit such reconsideration. However, section 7 states that "The Secretary of Agriculture shall not review any National Forest System lands for inclusion in the National Wilderness Preservation System unless expressly authorized by joint resolution of Congress adopted after the effective date of this Act; and no such lands shall be managed for protecting their suitability for possible wilderness designation unless authorized to be reviewed pursuant to this section."

These provisions read together appear to significantly modify RPA, NFMA, and the Multiple Use Act such that wilderness suitability review would be performed only once rather than as part of the recurring management plan revision process, and wilderness is expressly precluded as a management option for all lands not actually included in the wilderness system by the deadlines.

S. 842 also would direct that the Secretary of Agriculture not conduct any further statewide, regional, or national roadless area wilderness suitability reviews. Therefore, under S. 842, the wilderness suitability of particular tracts may be reviewed only if Congress requests the review, and this review would be productive only if the wilderness attributes of a tract survived mandated efforts at nonwilderness management. This language has been characterized as "hard release" because it releases lands permanently from either wilderness management or review, unless Congress indicates otherwise. S. 842 was not enacted in the 97th Congress, but similar language was introduced for Arkansas and Oklahoma in H.R. 2452 in the 98th Congress.

Another version of hard release language that may be intermediate in its possible effects is that in the proposed Wyoming Wilderness bill, S. 543, that has passed the Senate on April 13, 1983, and is now before the House.

Section 302(a) of the bill states that the RARE II final EIS is not subject to judicial review as to national forest system lands in Wyoming.

Section 302 further states:

"(b) National forest system lands in the State of Wyoming—

"(1) not identified by section 201 as additions to the National Wilderness Preservation System; or

"(2) not heretofore designated by Act of Congress as components of the National Wilderness Preservation System,

shall be managed for multiple uses other than wilderness, until and unless otherwise directed by an Act of Congress. Such lands shall be deemed, for purposes of all current and future land management plans which are approved before December 31, 2000, and which are required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to have been given adequate consideration as to their suitability for inclusion in the National Wilderness Preservation System.

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[23] *Ibid.*, at 27

"(c) Unless expressly authorized by Congress, the Secretary of Agriculture shall not conduct, pursuant to the Wilderness Act, any roadless area review and evaluation of national forest system lands in the State of Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System."

This bill differs from either of the previous versions in several respects.

First of all, in contrast to soft release it applies to all national forest system lands in Wyoming that have not actually been included in the wilderness system, even areas classified for further planning under RARE II, and lands not studied by RARE II.

Such lands would be deemed to have been given adequate consideration for wilderness suitability for purposes of all current and future land management plans approved before December 31, 2000. Again, although this language would remove any basis for challenging pre-2000 plans that do not include review of wilderness suitability, the language may not prohibit such review in a particular instance. Subsection (c), however, states that the Secretary shall not conduct any reviews of forest system lands in Wyoming for suitability for inclusion in the national wilderness system unless authorized by Congress. These two provisions appear contradictory. The import of subsection (b) is that wilderness reviews as part of the planning process will resume after the year 2000, yet any review for suitability for inclusion of lands in the national system is prohibited under subsection (c). The committee report indicates that subsection (b) was intended to preclude all pre-2000 wilderness review and also that the word "statewide" may have been omitted from subsection (c).

"The bill, as reported, provides that the Department of Agriculture cannot review the wilderness option until the first planning cycle after December 31, 2000. Therefore, the legislation directs the Department of Agriculture not to conduct any further *statewide* roadless area review and evaluation of national forest system lands in Wyoming for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System." (emphasis added)

If a court were to look only to the statutory language, it might conclude that the intent was to permit reconsideration of the wilderness management option in plans developed after 2000, but to preclude any reviews of the wilderness suitability of Wyoming lands for inclusion in the national system. It is difficult to predict how a particular court might resolve these ambiguities. It also is difficult to analyze how S. 543 may modify RPA and NFMA until these ambiguities are resolved.

There has been considerable discussion during consideration of soft release and the Wyoming bill as to when in practice wilderness review pursuant to a management plan revision is likely to occur.

Although the committee reports on both soft release and the more recent Wyoming release language were apparently considering regulations that stated that a forest plan "will be revised at least every 10 years, or more frequently whenever the forest supervisor determines that conditions or the demands of the public in the area covered by the plan have changed significantly",[24] this regulation has been changed to read: "A forest plan shall ordinarily be revised on a 10-year cycle or at least every 15 years."[25]

Therefore, if most first generation plans are in place by the 1985 deadline, the next routine revisions would occur between 10 to 15 years later, or 1995–2000. Wilderness suitability would be reviewed at that time under soft release language, but not until 2005–2010 and possibly almost 2015 under the Wyoming language.

S. 543 resolves the issue of how to manage lands with wilderness attributes pending reconsideration by mandating that they "shall be managed for multiple uses other than wilderness" unless otherwise directed by an Act of Congress. This mandate also applies to lands classified for further planning under RARE II.

This language not only permits nonwilderness uses as does the soft release language, it appears to direct that the Forest Service attempt to secure nonwilderness uses. Some other uses, such as recreation and wildlife preservation may preserve wilderness attributes, but certainly this provision reflects a significant shift of emphasis compared to the soft release language. The committee report appears to understate the difference:

"To eliminate any possible misunderstanding on this point, the bill provides that all National Forest lands in Wyoming not designated as wilderness shall be managed for multiple uses other than wilderness. The Committee believes the Forest Service already has statutory authority to manage roadless areas for multiple use,

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[24] 36 CFR 219.11(f) (1981 volume).
[25] 36 CFR 219.10(g) (1983 volume).

nonwilderness purposes. It wishes to make clear, however, that study of the wilderness option in future generations of Section 6 plans is required only for those lands which may be suited for wilderness at the time of the initiation of such future planning after December 31, 2000. There is no bar to management which may, as a practical matter, result in the land no longer being suited for wilderness.

"For example, under this language, the Forest Service may conduct a timber sale in a roadless area and not be challenged on the basis that the area must be considered for wilderness in a future planning cycle. Once into a second-generation plan, the Forest Service may, of course, manage a roadless area according to that plan without the necessity of preserving the wilderness option for the third-generation planning process. Should the particular area still be suited for possible wilderness at the time of the third generation planning process, the wilderness option would be considered at that time. In short, the wilderness option must be considered in each future planning generation begun after December 31, 2000, if the particular land in question still possesses wilderness attributes. But the statute prohibits the FS from directing that these attributes be preserved solely for the purpose of their future evaluation in the planning process." [26]

WILDERNESS RELEASE POLICY ISSUES

Discussions of release language often focus on language details, obscuring the policies underlying the various alternatives.[27] It is important to determine if the language will indeed result in the desired actions, but it is also important to compare those desired actions. The differing features of the alternatives reflect efforts to implement different goals.

Area released

Soft release permits the Forest Service to not review the wilderness option for certain RARE II areas in the initial forest plans and is intended to prevent lawsuits which would require such a review. However, the Forest Service is expected to examine the wilderness option in the initial forest plans for (1) the further planning areas on which Congress has not reached a decision, (2) any remaining congressionally-designated study areas, and (3) any roadless areas excluded from RARE II which meet the criteria for wilderness in the Wilderness Act.

Proponents of soft release language argue that not all Forest Service lands should be released. Certain RARE II further planning areas have not been addressed by Congress, they contend, because the Forest Service did not provide adequate information for making a wilderness/nonwilderness decision. Proponents assert that any congressionally-designated study areas should be studied in the initial forest plans because Congress has expressed interest in a detailed study of these areas. Finally, the wilderness potential of roadless areas excluded from RARE II should be reviewed in the initial plans because the RARE II EIS is only applicable to those areas studied; release, it is believed, should be restricted to those areas that have been studied for wilderness potential and judged not suited.

The Wyoming version of hard release language would release all national forest lands not included in the National Wilderness Preservation System from a review of wilderness potential. No wilderness reexamination would be required in any of the initial forest plans being developed under FNMA. Proponents of hard release argue that further wilderness study for purposes of the initial plans is unnecessarily duplicative because the RARE II study supplanted the wilderness study required by NFMA. It is further alleged that the RARE II EIS contains sufficient information for Congress to thoroughly examine all roadless areas on the national forests and make decisions as to wilderness designation. Hard release proponents assert that additional study by the Forest Service is unlikely to uncover new information for making intelligent decisions about the future use of these areas, and is therefore unnecessarily time-consuming, duplicative, and expensive.

Timing of wilderness review

It is generally accepted that soft release would basically require wilderness review only during the revision of the initial forest plans. The target date established in NFMA for completing all the initial forest plans is September 30, 1985, although this may not be achieved, and plan revisions are expected to occur approximately 10 to 15 years later. Thus, if a plan takes two years to revising their plans, and hence reexamining the wilderness option, in about 1993 if the plans are implemented by

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[26] S. Rep. No. 54, 98th Cong., 1st sess. at 14–15.

[27] This report supersedes CRS Report 83–611 ENR, Wilderness Release Language.

1985. Reexamination could, however, occur as late as 1998, even assuming the initial plans are completed by the 1985 target, because forest plans must be revised at least every 15 years. The earliest possible wilderness reviews could theoretically begin as early as 1986, but it is hardly realistic to expect that a plan adopted in 1985 would be revised only a year later. A court-ordered revision of the initial plan could require such an early wilderness review, but as discussed earlier, this also appears to be unlikely.

The reexamination of the wilderness option cannot begin before 2001 under the Wyoming version of hard release. The proponents of this language state that the intent is to provide two generations of national forest planning without review of the wilderness potential, thereby altering the current review and planning requirements of NFMA. This period without wilderness review is roughly 10 to 15 years longer than the period provided by soft release. Under hard release, specified forest lands are likely to remain available for timber harvesting for a longer period. The forest industry asserts that this is necessary for stable, effective long-range planning and development.

Longer periods without wilderness study also provide a greater opportunity for developments to occur in roadless areas, such that an area might not meet the Wilderness Act's criteria for wilderness. Proponents of hard release desire longer periods without wilderness review because more developments in roadless areas reduce the potential for those areas to be included in the National Wilderness Preservation System, and hence be unavailable for most further development. Citing the same possibility, soft release proponents prefer a shorter period before reviewing the wilderness option; if the review is postponed for 20 to 30 years, they argue, most of the areas which currently meet the wilderness criteria may have been developed, thus precluding their possible future designation as wilderness. Soft release proponents believe that the 10 to 15 year period provided in soft release is appropriate for stable planning by the forest industry, and argue that this issue was settled in 1976 with the enactment of NFMA.

Interim review authority

Soft release language, like NFMA, provides the Forest Service with the flexibility to examine the wilderness potential of an area at any time, although as previously noted, reexamination is not expected to occur under most circumstances until about 1993. Soft release, however, also restricts the Forest Service from conducting any statewide wilderness analyses without specific congressional authorization. In some States, this prohibition may produce contradictory results. Twelve States have only 1 national forest, and six others are developing on NFMA plan for all the forests in the State. In those States, a wilderness review for the national forest unit would be a statewide review.

Wyoming release prohibits the Forest Service from undertaking any study of wilderness potential until after the specified date (December 31, 2000) and possible even thereafter. The intent may have been to prohibit all statewide wilderness reviews after that date without specific congressional authorization, but this is not clear from the language in the bill.

Proponents of hard release argue that the Forest Service must be prohibited from conducting any wilderness reviews until a specified date. Because the planning process requires that the Forest Service respond to public concerns, proponents argue that even if Congress envisions two generations of release in the forest planning, public involvement may well force earlier wilderness review, possibly even when the initial plan is revised. Proponents of soft release point out that a prohibition on wilderness review would unnecessarily restrict the flexibility of the Forest Service in managing the national forest lands under NFMA and the Multiple Use-Sustained Yield Act.

Interim management guidelines

Soft release language also seeks to continue the existing Forest Service management flexibility in the interim period before a review of the wilderness option. Although roadless areas may be managed to retain their wilderness character, protection of these characteristics is not required; soft release is intended to clarify this point. Hard release directs that areas not included in the National Wilderness Preservation System must be managed for multiple uses other than wilderness. Soft release proponents contend this is a tacit command to develop an area so that later it will not qualify as wilderness, as discussed earlier. It should be noted that management for some other uses, such as some types of recreation and wildlife, may preserve the wilderness attributes of an area. At the very least, however, hard release emphasizes nonwilderness uses.

Effect on NFMA planning

Soft release language was developed, according to its proponents, to conform to the planning process established in the RPA and NFMA. These laws, they assert, are carefully considered, carefully crafted significant acts that should only be changed with great care or not at all. Soft release proponents charge that the hard release bills change forest management significantly and without adequate consideration of this aspect of the issues. It is also argued that the entire National Forest System should be managed under the same guidance; since six States now have wilderness legislation enacted with soft release, proponents contend that soft release should be the basic posture adopted in the balance of wilderness legislation. Particular circumstances requiring variations could be addressed in bills for particular units. The Forest Service, however, has noted that the National Forest System is a highly decentralized organization, and that different requirements in different States would not impose an impossible burden on national forest management. It should be noted, however, that 26 of the 155 national forests and 2 of the 19 national grasslands have land in more than one State, so differing guidance could cause some difficulties.

Another point is the impact on Forest Service planning. The planning process established by RPA and NFMA is intended to be cyclical, with plans revised at least every 15 years. At those times, all resources, land use allocations, and potentials are to be considered. Soft release is intended basically to establish the validity of RARE II as a sufficient wilderness analysis for some areas in the initial forest plans, but otherwise to retain the current planning process. Soft release language also continues agency flexibility, allowing the agency to respond to changing conditions. Hard release alters the planning requirements by prohibiting consideration of wilderness use until after a specified date in the future.

II

98TH CONGRESS
1ST SESSION

H. R. 3960

IN THE SENATE OF THE UNITED STATES

NOVEMBER 16 (legislative day, NOVEMBER 14), 1983

Received; read twice and referred to the Committee on Agriculture, Nutrition, and Forestry

AN ACT

To designate certain public lands in North Carolina as additions to the National Wilderness Preservation System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "North Carolina Wilderness Act of 1983".

SEC. 2. (a) In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131–1136), the following lands are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

(1) certain lands in the Uwharrie National Forest, North Carolina, which comprise approximately four thousand seven hundred and ninety acres, as generally depicted on a map entitled "Birkhead Mountains Wilderness—Proposed", dated July 1983, and which shall be known as the Birkhead Mountains Wilderness;

(2) certain lands in the Croatan National Forest, North Carolina, which comprise approximately seven thousand six hundred acres, as generally depicted on a map entitled "Catfish Lake South Wilderness—Proposed", dated July 1983, and which shall be known as the Catfish Lake South Wilderness;

(3) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately three thousand six hundred and eighty acres, as generally depicted on a map entitled "Ellicott Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Ellicott Rock Wilderness as designated by Public Law 93-622;

(4) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately two thousand nine hundred and eighty acres, as generally depicted on a map entitled "Joyce Kilmer-Slickrock Wilderness Additions—Proposed", dated July

1983, and which are hereby incorporated in, and shall be deemed to be part of, the Joyce Kilmer Wilderness as designated by Public Law 93–622;

(5) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately three thousand four hundred acres, as generally depicted on a map entitled "Linville Gorge Wilderness Additions—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Linville Gorge Wilderness as designated by Public Law 88–577;

(6) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately seven thousand nine hundred acres, as generally depicted on a map entitled "Middle Prong Wilderness—Proposed", dated July 1983, and which shall be known as the Middle Prong Wilderness;

(7) certain lands in the Croatan National Forest, North Carolina, which comprise approximately eleven thousand acres, as generally depicted on a map entitled "Pocosin Wilderness—Proposed", dated July 1983, and which shall be known as the Pocosin Wilderness;

(8) certain lands in the Croatan National Forest, North Carolina, which comprise approximately one thousand eight hundred and sixty acres, as generally

depicted on a map entitled "Pond Pine Wilderness—Proposed", dated July 1983, and which shall be known as the Pond Pine Wilderness;

(9) certain lands in the Croatan National Forest, North Carolina, which comprise approximately nine thousand five hundred and forty acres, as generally depicted on a map entitled "Sheep Ridge Wilderness—Proposed", dated October 1983, and which shall be known as the Sheep Ridge Wilderness;

(10) certain lands in the Pisgah National Forest, North Carolina, which comprise approximately five thousand one hundred acres, as generally depicted on a map entitled "Shining Rock Wilderness Addition—Proposed", dated July 1983, and which are hereby incorporated in, and shall be deemed to be part of, the Shining Rock Wilderness as designated by Public Law 88–577; and

(11) certain lands in the Nantahala National Forest, North Carolina, which comprise approximately ten thousand nine hundred acres, as generally depicted on a map entitled "Southern Nantahala Wilderness—Proposed", dated July 1983, and which shall be known as the Southern Nantahala Wilderness.

SEC. 3. Subject to valid existing rights, each wilderness area designated by this Act shall be administered by the Sec-

retary of Agriculture in accordance with the provisions of the Wilderness Act governing areas designated by that Act as wilderness except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

SEC. 4. As soon as practicable after enactment of this Act, the Secretary of Agriculture shall file a map and a legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry and with the Committee on Energy and Natural Resources of the United States Senate. Each such map and description shall have the same force and effect as if included in this Act except that the Secretary of Agriculture may make correction of clerical and typographical errors in each such legal description and map. Each such legal description and map shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

SEC. 5. (a) The Congress finds that—

(1) the Department of Agriculture has completed the second Roadless Area Review and Evaluation program (RARE II); and

(2) the Congress has made its own review and examination of national forest system roadless areas in the State of North Carolina and of the environmental impacts associated with alternative allocations of such areas.

(b) On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to national forest system lands in States other than North Carolina, such statement shall not be subject to judicial review with respect to national forest system lands in the State of North Carolina;

(2) with respect to the national forest system lands in the State of North Carolina which were reviewed by the Department of Agriculture in the second Roadless Area Review and Evaluation (RARE II), except those lands designated as wilderness or for wilderness study by this Act or by previous Acts of Congress, that review and evaluation shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974 as amended by the National Forest Management Act of 1976 to be

an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the initial plans and in no case prior to the date established by law for completion of the initial planning cycle;

(3) areas in the State of North Carolina reviewed in such final environmental statement and not designated as wilderness or for wilderness study by this Act or by previous Acts of Congress, need not be managed for the purpose of protecting their suitability for wilderness designation pending revision of the initial plans; and

(4) unless expressly authorized by Congress the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of national forest system lands in the State of North Carolina for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

SEC. 6. (a) In furtherance of the purposes of the Wilderness Act, the following lands shall be reviewed by the Secretary of Agriculture as to their suitability for preservation as wilderness during preparation of the initial land management

plans pursuant to section 6 of the Forest and Rangeland Renewable Resource Planning Act of 1974 as amended—

(1) certain lands in the Pisgah National Forest which comprise approximately seven thousand one hundred and thirty-eight acres, as generally depicted on a map entitled "Harper Creek Wilderness Study Area", dated July 1983, and which shall be known as the Harper Creek Wilderness Study Area;

(2) certain lands in the Pisgah National Forest which comprise approximately five thousand seven hundred and eight acres, as generally depicted on a map entitled "Lost Cove Wilderness Study Area", dated July 1983, and which shall be known as the Lost Cove Wilderness Study Area;

(3) certain lands in the Nantahala National Forest which comprise approximately three thousand two hundred acres, as generally depicted on a map entitled "Overflow Wilderness Study Area", dated July 1983, and which shall be known as the Overflow Wilderness Study Area;

(4) certain lands in the Nantahala National Forest which comprise approximately eight thousand four hundred and ninety acres, as generally depicted on a map entitled "Snowbird Wilderness Study Area", dated

July 1983, and which shall be known as the Snowbird Wilderness Study Area; and

(5) certain lands in the Pisgah National Forest which comprise approximately one thousand two hundred and eighty acres, as generally depicted on a map entitled "Craggy Mountain Wilderness Study Area Extension", dated July 1983, and which are hereby incorporated in the Craggy Mountain Wilderness Study Area as designated by Public Law 93–622.

The entire Craggy Mountain Wilderness Study Area, including the study area designated by Public Law 93–622 shall be administered in accordance with subsection (b) until the Congress determines otherwise. The Secretary shall submit a report and findings to the President regarding the review under this section, and the President shall submit his recommendations regarding the areas specified in paragraphs (1) through (5) to the Congress of the United States no later than three years after the date of enactment of this Act.

(b) Subject to valid existing rights, the wilderness study areas designated by this section shall, until Congress determines otherwise, be administered by the Secretary of Agriculture so as to maintain their presently existing wilderness

character and potential for inclusion in the National Wilderness Preservation System.

Passed the House of Representatives November 16, 1983.

Attest: BENJAMIN J. GUTHRIE,

Clerk.

DEPARTMENT OF AGRICULTURE,
OFFICE OF THE SECRETARY,
Washington, D.C., April 18, 1984.

Hon. JESSE HELMS,
Chairman, Committee on Agriculture, Nutrition, and Forestry,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: As you requested, here are our comments on H.R. 3960, as passed by the House of Representatives, a bill "To designate certain public lands in North Carolina as additions to the National Wilderness Preservation System."

The Department of Agriculture recommends the bill be enacted if amended.

H.R. 3960 would designate seven new wildernesses and four additions to existing wildernesses in the State of North Carolina for a total of 68,750 acres. All 11 areas were recommended for wilderness designation in the RARE II Final Environmental Statement filed in 1979. Section 5 of the bill provides for the legal and factual sufficiency of the RARE II Final Environmental Statement in the State of North Carolina. This section also releases those lands which were reviewed by the Department of Agriculture in RARE II, and recommended for uses other than wilderness, from further wilderness consideration during the initial National Forest Land Management Plan. Section 6 of the bill would establish five wilderness study areas. These five areas were included in the RARE II inventory and recommended for further planning.

The lands proposed for wilderness designation in section 2 of the bill were recommended in the RARE II Final Environmental Impact Statement for wilderness designation. These areas include Birkhead Mountains, Catfish Lake South, Ellicott Rock Addition, Joyce Kilmer-Slickrock Additions, Linville Gorge Additions, Middle Prong, Pocosin, Pond Pine, Sheep Ridge, Shining Rock Addition, and Southern Nantahala. The Department of Agriculture continues to support designation of these areas as additions to the National Wilderness Preservation System.

The bill's declaration that the RARE II Environmental Impact Statement is legally sufficient and that adequate consideration has been given to the wilderness and nonwilderness values for all roadless areas in the State of North Carolina will save considerable effort and money that would be required to carry out additional review of these roadless areas for the Forest Land Management Plan. Unfortunately, the language in section 5 of H.R. 3960 would release areas in North Carolina from further wilderness consideration only until initial land management plans prepared under the National Forest Management Act of 1974 are revised. This language, if enacted, would perpetuate the current uncertainties over the land base that will be available over the long term for nonwilderness multiple-use activities. Local communities have a right to have some certainty over the land base which will be available to support economic activities upon which their future well-being depends. Under the language of the bill, if a change in physical conditions, litigation, or other factors result in the need to revise a Forest Plan in only 2 years, the entire roadless area review and evaluation question would need to be reexamined. This would be extremely disruptive and a waste of Forest Service time and manpower. We recommend that the release language contained in section 5 of H.R. 3960 be amended to provide permanent or long-term release of all National Forest System lands not designated as wilderness or for wilderness study.

Section 6 provides for wilderness study of the following areas—Harper Creek, Lost Cove, Overflow, Snowbird, and portions of Craggy Mountain. These areas were identified as further planning in RARE II. We recognized that these areas had some wilderness potential but also had high resource values. RARE II, therefore, determined that additional analysis would be necessary before a recommendation for either wilderness or nonwilderness designation could be made and placed these areas in further planning. Part of the Craggy Mountain Area was established as a Wilderness Study Area by Congress as part of P.L. 93-622, the Eastern Wilderness Act. This study is in final review at this time. The Forest Service has included the portions of the area recommended for further planning in RARE II in the Craggy Mountain Wilderness Study Report. We, therefore, recommend section 6(a)(5) be deleted from the bill to avoid duplication. We do not object to the other four areas being designated for wilderness study. We support the provision of section 6 which provide for wilderness review during preparation of the land management plans.

We recommend that subsection 6(b) be deleted. This subsection requires that wilderness study areas be administered to maintain their presently existing wilderness character until Congress determines otherwise. We recommend that the areas either be recommended for wilderness or released for uses other than wilderness based on the Forest land management plan and accompanying environmental impact statement. If an area or areas were to be released for uses other than wilder-

ness, under an existing agreement with the Committee, we would provide a 90-day notice of our decision. This agreement was developed during consideration of the National Forest Management Act.

We would like to point out that in two areas, Ellicott Rock Addition and Southern Nantahala, only the portions within the State of North Carolina are to be designated. Both of these areas also include lands in other States. The Ellicott Rock Addition includes 3,100 acres in the State of Georgia and 1,900 acres in the State of South Carolina. Southern Nantahala includes an additional area in the State of Georgia. It may be desirable for the Committee to consider designating the portions in the adjoining State at the same time the portions of the areas in North Carolina are designated.

It is estimated that surveying, planning, and peforming related activities necessary to implement this legislation, if amended as we suggest, would be approximately $80,000 annually over the next 5 years.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

JOHN R. BLOCK, *Secretary.*

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